

KASHMIR

A FACTUAL SURVEY



INFORMATION SERVICE OF INDIA
NEW DELHI

KASHMIR

A FACTUAL SURVEY

INFORMATION SERVICE OF INDIA
NEW DELHI

CONTENTS

				PAGE
	INTRODUCTION	..	..	5
CHAPTER	I PAKISTAN'S CASE	..	..	12
	II GEOGRAPHY, ETHNOLOGY AND HISTORY OF KASHMIR	..	..	21
	III PARTITION AND THE INDIAN STATES	..	..	24
	IV KASHMIR IN THE UNITED NATIONS	..	..	41
	V DIRECT NEGOTIATIONS ..	..	..	54
	VI PAKISTAN AND THE MILITARY FACTS	..	..	58
	VII KASHMIR AND ITS PEOPLE	..	..	65
	VIII CONCLUSION	..	..	67
APPENDIX	I ..	..	..	73
	II ..	..	..	77
	III ..	..	..	80
	IV ..	..	..	83

December 1956.

INTRODUCTION

PRIOR to the withdrawal of British power, the Indian sub-continent was composed of British India and the Indian States. On August 15, 1947, British India was partitioned. Certain territories were carved out in order to constitute a new State of Pakistan.

The plan for partition applied to British India and not to some 565 Indian States. The future of these States was left to the States themselves. The Ruler of a state was to decide its future affiliation. By August 15, 1947, more than 500 of these States had acceded either to India or Pakistan. The Ruler of the State of Jammu and Kashmir had not, however, decided which of the two States he would join. Pending this decision he concluded a Standstill Agreement with Pakistan.

Almost immediately after the conclusion of the Standstill Agreement, increasing pressures were brought to bear upon the States of Jammu and Kashmir to force it to accede to Pakistan. Economic sanctions were, at first, applied. Supplies and services which Pakistan had agreed to give to Kashmir under the Standstill Agreement were either withheld or delayed. When these pressures failed to produce the desired results an officer of the Pakistan External Affairs office was sent to Srinagar, ostensibly, to discuss the Kashmir Government's protest, but, in fact to put pressure on the Maharaja to accede to Pakistan. The Kashmir Government, naturally, refused to be hustled or coerced. The Pakistan diplomat then returned to Karachi. A few days later the invasion of Kashmir began.

The invaders, most of whom hailed from the North West Frontier Province of Pakistan, entered the Kashmir State in their thousands on October 22, 1947. In five days they advanced to within a short distance from the capital of

Kashmir, Srinagar. In this grave emergency the Maharaja of Kashmir appealed to the Government of India for assistance, and on October 26, 1947, he executed the Instrument of Accession with the Indian Union. It was in these circumstances that Kashmir became an integral part of India. A few hundred Indian troops were flown into Kashmir on the morning of October 27, 1947, to support resistance offered by the people. These troops arrived just in time to stem the tide of invasion which had almost reached the capital.

The havoc wrought by the invaders is too well known to need fresh description. They indulged in indiscriminate plunder, arson and rape. They committed savage atrocities against men, women and children and reduced to scorched earth the towns and villages through which they passed.

The invaders could not be expelled forcibly from the State of Jammu and Kashmir as they had bases and sources of supply and reinforcements in Pakistan. Anxious to avoid an armed conflict with Pakistan, India filed on January 1, 1948, a complaint with the Security Council under article 35 of the Charter, and requested the Council to ask the Government of Pakistan :

1. to prevent Pakistan Government personnel, military and civil, from participating or assisting in the invasion of the Jammu and Kashmir State;
2. to call upon other Pakistan nationals to desist from taking any part in the fighting in the Jammu and Kashmir State;
3. to deny to the invaders, (a) access to and use of its territory for operations against Kashmir, (b) military and other supplies, (c) all other kinds of aid that might tend to prolong the struggle.

The Security Council in its resolution of January 20, 1948, established the United Nations Commission for India and Pakistan. After consultations and discussions with the Governments of India and Pakistan the Commission adopted a resolution at its 40th meeting on August 13, 1948. The resolution was in three parts : Part I dealt with cease-fire; Part II set out the principles of a truce agreement, and

Part III incorporated a declaration to be made by the Governments of India and Pakistan that the future status of the State of Jammu and Kashmir would be determined in accordance with the will of the people; to that end and upon acceptance of the truce agreement, both the Governments would enter into consultation with the Commission to determine fair and equitable conditions for ensuring such free expression. While India accepted this resolution, Pakistan did not.

As the result of further discussions between the Commission and the two Governments, the Commission formulated certain principles relating to the plebiscite; these were supplementary to the Commission's resolution of August 13, 1948; the Governments of India and Pakistan accepted these principles set out in the Commission's resolution of January 5, 1949, which reaffirmed the resolution of August 13. Both the Governments ordered a cease-fire which became effective from 11-59 p.m. on January 1, 1949, in accordance with Part I of the resolution of August 13, 1948.

The negotiations on questions relating to Part II of the resolution of August 13, 1948, regarding a truce agreement and the principles mentioned in the supplementary resolution of January 5, 1949, continued between the Commission, on the one hand, and the Governments of India and Pakistan, on the other, till March 1953, when Dr. Frank Graham, the U.N. mediator, submitted his Fifth Report to the Security Council.

Reporting his failure to translate into action the principles accepted by the two Governments for the formulation of a truce agreement he suggested that India and Pakistan should negotiate the truce agreement directly. But the negotiations on this matter between the two Governments also failed. The present position, therefore, is :

1. There exists an effective Cease-fire Agreement in the State of Jammu and Kashmir between India and Pakistan supervised by U.N. Observers.

2. The principles have been formulated on which a truce agreement is to be based between the Governments of India and Pakistan in accordance with the two resolutions of the UNCIP

mentioned above. Seven years have passed these principles were enunciated and accepted but there has been no truce agreement so far; meanwhile various other developments have taken place which have altered materially the context of the background and of the conditions in which the principles were enunciated and accepted.

3. An undertaking has been given by both the Governments that upon the signature of the truce agreement, in accordance with the principles referred to in (2) above, the details of the various proposals regarding arrangements for the holding of a plebiscite will be elaborated in accordance with consultations envisaged in Part III of the Commission's resolution of August 13, 1948.

The present position is that the last stage of the settlement of the dispute, *viz.*, making arrangements for a plebiscite cannot be implemented because of the failure to arrive at a truce agreement in terms of Part II of the resolution of August 13, 1948.

In January 1948 when India complained to the Security Council, Pakistan denied the presence of any of its troops in Kashmir. Later, by July 9, 1948, when the UNCIP arrived in Pakistan and the facts could not be concealed any further, Pakistan admitted the presence of its troops in Kashmir; the UNCIP noted this as a material change in the conditions prevailing in the State of Jammu and Kashmir.*

There has been a further material change, namely, the organisation of the so-called "Azad" Kashmir force of 32 battalions, trained and equipped by Pakistan**. These

*UNCIP Resolution, August 13, 1948, Part II, A I.

"As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State".

**UNCIP Third Interim Report II5B.

"The Resolution of August 13, 1948 recorded one major change in the situation as contemplated by the Security Council during its deliberations in the early part of that year, namely, the presence of Pakistan troops in the State of Jammu and Kashmir. It did not however, record a second element which has developed subsequently into a serious problem in the implementation of that Resolution: The Azad Kashmir Movement whose fighting force, today number some 32 well-equipped battalions".

forces are actually controlled by the Pakistan Army in the Pakistan-occupied area of the State of Jammu and Kashmir. This is another material change which was not considered in the UNCIP resolutions. India had insisted that these forces be disarmed and disbanded. There were detailed discussions on this matter between the U.N. representative and the Governments of India and Pakistan and also between the two Governments direct. Pakistan has, all along, continued to increase its military potential in Kashmir in violation of the principles in B of Part I of the cease-fire arrangements contained in the resolution of August 13, 1948.

Demilitarisation of the area unlawfully occupied by Pakistan as well as the withdrawal of Pakistan troops were the two major principles embodied in the resolution of August 13. The same resolution required India to retain its troops in the State though in reduced strength for the maintenance of law and order and the security of the State. Eight years have not been enough for Pakistan either to give up its unlawful hold on the occupied areas or to disband and disarm the formidable strength of "Azad" Kashmir forces. By insisting on parity of treatment with India or for the so-called "Azad" Kashmir Government with the legal Government of Jammu and Kashmir, the aggressor has succeeded in preventing the conclusion of a truce agreement without which there could be no plebiscite.

At the end of 1953, Pakistan entered into a defence aid agreement with the United States of America and has been receiving supplies of military material and equipment which have enabled it to increase its military potential. This increased military potential is reflected also in the organisation and equipment of the so-called "Azad" Kashmir Force. Pakistan has also joined the SEADO and Baghdad Pacts. These are represented to be regional defence alliances for the security of the territory of the member countries. But for Pakistan the defence aid from the U.S.A. and, the military pacts, are meant to put military pressure on India to settle the Kashmir question to Pakistan's satisfaction. Pakistan has thus shown scant regard for the

principles set out in the UNCLP's resolutions. This can be seen clearly from the war propaganda in the Pakistan press and from statements made by Pakistan politicians.

Reference might, at this stage, be made to the developments in the Jammu and Kashmir State during the last nine years. Obviously, the State could not wait until its entire territory had been vacated by the occupying forces of Pakistan. Accordingly, it held elections to a Constituent Assembly, drew up a constitution, and framed a programme of economic development with the assistance of India. At no other time in its history has the land, where hunger and poverty used to stalk, shown as many signs of prosperity as it does today. Big development projects are under execution. Last year the tourist traffic, which is the life-blood of the State's economy, reached the highest point ever recorded.

India attaches great importance to the maintenance of stable and peaceful conditions in Kashmir, any unselement there, is bound to have serious repercussions throughout the sub-continent. Any settlement of the Kashmir problem must, therefore, take into account all these practical considerations bearing in mind all the developments which have taken place in the State during the last eight years. Above all, the cease-fire must be maintained and a settlement must be arrived at by peaceful means.

It is somewhat disconcerting for India to hear the cries of jihad (holy war) which still continue to be raised in Pakistan. Fresh threats are being hurled against India and there is wild talk about sending armed tribesmen through Pakistan to cross the cease-fire line and to repeat the history of October 1947. All this is hardly consistent with Pakistan's professions about a peaceful settlement of the Kashmir question. The Government of India had offered a "no-war" declaration to Pakistan as early as December 1949. There has been no suitable response to this offer from the Pakistan Government. On the other hand, Pakistan has not only entered into defence aid agreements and pacts to consolidate and extend the gains of

aggression in Kashmir, but has also been squeezing out its citizens of the minority community from East Pakistan. Three and a half million of them have come away from East Pakistan since 1948 and the migration still continues. It is the result of a policy of deliberate discrimination by Pakistan against a section of its own nationals merely on the ground that it belongs to a different faith. This mediæval and undemocratic policy against innocent men, women and children has created a serious situation.

CHAPTER I

PAKISTAN'S CASE

IN the case presented by or on behalf of Pakistan, it has always been asserted that the people of Kashmir cannot have any other destiny than to become part of Pakistan. The argument is based on nothing more substantial than the fact that the majority of Kashmiris happen to be Muslims. It may be worth while examining the implications of this argument.

The premise on which the argument rests is that the religion of a given people alone can determine their nationality and their political affiliation. Whatever may have been its validity in the medieval past, such a premise can never be accepted today. It would, indeed, be dangerous if it were otherwise ; for its acceptance would provide a basis for subverting, in the name of religion, the loyalty of people to the country of their birth. The alliance of religious or racial fanaticism and politics is a most dangerous one, and leads to disastrous results.

There is one other consideration that might be borne in mind. Mere religious affinity between the Government and the people has never, either in the historical past or in the present, guaranteed the well-being, contentment, economic or cultural progress of any people. The history of Kashmir itself is sufficient proof of this ; for centuries it was ruled by Muslims, yet the people fared no better than under a Hindu dynasty. Indeed, during this entire period they suffered some of the worst oppressions.

Merely because the majority of the people of Kashmir are Muslims, one cannot take it as axiomatic that their

interests would be safeguarded if they merged themselves with Pakistan, nor, indeed, can it be assumed without proof that their economic well-being and social and cultural progress will be adversely affected if they continue to retain their honoured place as one of the constituent states of the Republic of India.

The issues in Kashmir cannot be judged in terms of religion. The Kashmir question is not a Hindu-Muslim question. Pakistan has, no doubt, good reasons for wishing to over-simplify a complex problem. But if Pakistan can lay claim to Kashmir purely on the basis of religion, India can justifiably point out that even after partition 40 million of her citizens are Muslims. India, thus, has the third largest Muslim population in the world after Indonesia's 77 million and Pakistan's 66 million.

The economic and strategic arguments advanced in support of Kashmir's accession to Pakistan fare no better under an impartial scrutiny.

In the Working Paper No. 1 on Kashmir, recently issued by the Ministry of Kashmir Affairs, Government of Pakistan, on the occasion of the All Parties Conference, the economic and strategic arguments are summed up as follows :

the three main rivers of West Pakistan, the Indus, the Jhelum and the Chenab, rise in or flow through Kashmir; the economy of the State is interlinked with the economy of Pakistan. Pakistan in turn depends for its very life-blood on the river waters;

the State is one of the principal recruiting grounds for the Pakistan Army and is so placed strategically that if an unfriendly power controls it, it can outflank the defences of Western Pakistan, and create trouble for Pakistan in the tribal areas.

The argument that since the sources of the three most important rivers in West Pakistan are situated in Kashmir, Pakistan cannot feel a sense of security until she acquires control over them is factually inaccurate and has absurd implications. As any good map will show, only one river (the Jhelum) rises in Kashmir. The three other of the five rivers of the Punjab rise in other Indian territory while

the fifth (the Sutlej) rises in the Tibet region of China. There remains only the northernmost river of the Indian sub-continent—the Indus—which also rises in China. Is it then the Pakistani argument that both China and India must cede to her large parts of their territory? It is obvious that the acceptance of the Pakistani claim would lead to the modification of the frontiers of numberless well-established States all over the world.

In Europe and elsewhere sovereign States have existed and continue to exist without having control over the sources of the rivers which flow through their territories and constitute their life-blood. For instance, the Danube rises in one State and flows through several other States.

The sources of all the rivers, except one, which flow into the most populous region of Pakistan, viz, East Pakistan, are situated in India. It has never been argued that this geographical fact provides a basis for territorial claims by Pakistan on India. The injection of this purely riparian argument into the Kashmir controversy vividly illustrates the technique of Pakistan's propaganda.

The argument based on economic relations is by no means peculiar to Pakistan and Kashmir. In the modern world, the economies of several sovereign nations are intimately interlinked; but this has never been considered sufficient justification for a State to annex a territory or to lay claim to it.

So far as economic interdependence is concerned, it can be demonstrated even more conclusively that the trade relations of Kashmir with India have always been more intimate and substantial than those which obtained between Kashmir and the present Pakistan territory. Prior to the partition, almost 80 per cent. of Kashmir's imports, exports and tourism depended upon India. This should not cause any surprise if one compares the size, the resources and the population of India with those of Pakistan.

As for the State being one of the principal recruiting grounds for the Pakistan Army, the assertion is without foundation. True, during the British regime a certain

number of soldiers were recruited from the Poonch district in the Province of Jammu ; Pakistan has a population of 70 million, and it is manifestly absurd to contend that it has to draw its military manpower from a single district outside its territory with a population of less than one million.

The strategic argument is equally baseless. Anyone who has the least knowledge of the terrain of the region would recognise that India could never threaten Pakistan through Kashmir.

India has no hostile intentions towards Pakistan. To invent such fictitious intentions and then to make them the basis of a claim to Kashmir may be good propaganda but it is hardly good logic.

There is one further argument which needs consideration. Sir Zafrullah Khan expressed it in the following words :

The possession of Kashmir can add nothing to the economy of India or to the strategic security of India. On the other hand, it is vital for Pakistan. If Kashmir should accede to India, Pakistan might as well, from both the economic and strategic points of view, become a feudatory of India or cease to exist as an independent sovereign State. That is the stake of the two sides: these are the considerations.

It must be clearly stated that at no time in the course of this unfortunate conflict over Kashmir has India ever made claims to Kashmir in the interests of its economy. India's case on Kashmir rests on something more important than self-interest, whether it be economic or strategic. This will be shown later. All that we need to point out at this stage is that, though Kashmir has been part of India during the last nine years, there has been no threat to the independence or integrity of Pakistan.

Sir Zafrullah Khan's arguments clearly demonstrate that Pakistan has little regard for the real interests of the Muslims of Kashmir and, in fact, these are cynically exploited to subserve some fancied vital interest of Pakistan—economic, strategic and commercial—or, to illustrate the soundness of the theory that Muslims *everywhere* owe

loyalty to Pakistan. The inherent weakness of its case leads Pakistan to stimulate fear and to preach hatred of India. Having conjured up the fiction of a "Hindu India", it constantly raises purely medieval slogans of religious crusades.

There is nothing more destructive to a true understanding of the Kashmir problem than attempts to reduce it to religious terms. A dramatic incident reported by Margaret Bourke-White*, in her vivid account of the tribal invasion of Kashmir, would illustrate the fallacy of the argument advanced by Pakistan that, simply because the majority of the people of Kashmir profess the Islamic faith, they must, inevitably, become part of Pakistan :

In Baramula the townspeople told me of a young Muslim shopkeeper who had sacrificed his life rather than recant in his creed of religious tolerance. His martyrdom had taken place almost under the shadow of the convent walls, and in the memory of the devoted Kashmiris he was fast assuming the stature of a saint.

When the tribesmen invaded Kashmir and terrorised the countryside, Sherwani, who knew every footpath in the Valley, began working behind the lines, keeping up the morale of the besieged villagers, urging them to resist and to stick together regardless of whether they were Hindus, Sikhs or Muslims, assuring them that help from the Indian Army and People's Militia was on the way. Three times by skilfully planted rumours he decoyed bands of tribesmen and got them surrounded and captured by the Indian Infantry. But the fourth time he was captured himself.

The tribesmen took Sherwani to the stoop of a little apple shop in the town square in front of them with the butts of rifles. Knowing Sherwani's popularity with the people, his captors ordered him to make a public announcement that joining Pakistan was the best solution for Muslims. When he refused, he was lashed to the porch posts with ropes, his arms spread out in the shape of a cross, and he was told he must shout, 'Pakistan Zindabad: Sher-e-Kashmir Murdabad.'

It was a curious thing that the tribesmen did next. I don't know why these savage nomads should have thought of such a

**Halfway to Freedom*, by Margaret Bourke-White, pp. 210-11.

things, unless the sight of the sacred figures in St. Joseph's Chapel on the hill just above had suggested it to them. They drove nails through the palms of Sherwani's hands. On his forehead they pressed a jagged piece of tin and wrote on it: 'The punishment of a traitor is death.'

Once more Sherwani cried out, 'Victory to Hindu-Muslim unity,' and fourteen tribesmen shot bullets into his body.

The martyrdom of Sherwani at the hands of his co-religionists throws into sharp relief the inner meaning of the conflict in Kashmir.

For more than half a century, the people of India had struggled for the emancipation of their country from foreign domination. Hindus, Muslims, Christians, Sikhs and Parsis—all made sacrifices for this great cause. People from all parts of India joined in the great movement, which developed into a powerful force under Mahatma Gandhi's leadership. All over Asia and Europe it evoked sympathy and support. The movement aimed at not merely freeing India from British domination, but also building a united, independent and democratic India. Against it stood many sectarian, religious, feudal and other vested interests. The Muslim League represented one of these. It set itself up against the main stream of Indian nationalism, endeavouring to sow disruption and discord by inciting religious hatred. The Muslim League provided a counterpoise to the growing national movement and as such it received encouragement and support from various quarters. But the national movement grew in strength.

At the end of the last war, it became clear that India could no longer be held in thraldom.

Realising that Britain could no longer rule India and that the Indian national movement was on the eve of its final victory, the League intensified its activities and caused tremendous strife. It was aided in this by Hindu reactionary parties. The Indian national movement fought against both. It was in this context that the British Government announced its Partition Plan on June 3, 1947. And on August 15, 1947 the partition was effected.

The dividing line of partition was not a religious one. It was political, despite the religious colouring which Pakistan endeavoured to give it. India was partitioned between composite Indian nationalism, on the one hand, and reactionary political sectarianism, on the other. India accepted the partition as it provided the only peaceful means of attaining freedom.

Acceptance of the partition as a political necessity did not mean that India also accepted the entire ideological facade which the Muslim League had created for its own purposes. Such an acceptance would have struck at the very foundations on which India was endeavouring to build the entire structure of her newly-won freedom.

Speaking at a Press Conference on November 16, 1949, the Prime Minister of India stated :

One....misunderstanding, not only in the U.S. but also in other parts of the world was that the partition of India was viewed as if the Muslims and non-Muslims of India had been completely separated on a religious basis, that is to say, as an outcome of the old Muslim League's or Mr. Jinnah's theory of two nations. So far as we are concerned we never accepted the theory; we repudiated it throughout.

The reason why India repudiates Pakistan's entirely novel concept of nationality is simple enough: the Indian Constitution is democratic and not theocratic. Even after partition, India has over 40 million Muslims as against Pakistan's 60 million. These Muslim citizens of India enjoy complete equality with the other citizens. They occupy an important position in the public life of the country and in the judicial, executive and diplomatic services of India.

In tragic contrast is the position of the mere ten million Hindus left in the Islamic theocracy of Pakistan.

If one examines the Kashmir conflict in the light of history, it becomes clear why India cannot recognise Pakistan as the self-styled protector of Islam ; consequently too, India cannot accept the argument that merely because three million people of Kashmir are Muslim, the State must be annexed to Pakistan. India with her 40 million Muslim

citizens is quite capable of ensuring the well-being and economic, social and cultural progress of the people of Kashmir.

The Jammu and Kashmir State of the Indian Union is governed by the duly elected representatives of the people, just as West Bengal or Andhra or Bihar is governed by its own people. Those who have visited Kashmir, and last year 50,000 people visited the State, have testified to the remarkable progress made by the people of the State in every sphere of life. It cannot be to anybody's advantage to disturb this peace, progress and stability. The Muslim citizens in India, as indeed the Government and people of India, look upon Kashmir as a symbol of their hopes and aspirations for a way of life which is above religious strife and intolerance.

INDIA AND KASHMIR

India is neither a Hindu State nor a Muslim, Christian, Parsi or a Sikh State. Its citizens include millions of people of every faith. They are engaged in creating a democratic society, cutting across differences of religion, community and language, and uniting all the citizens in one great endeavour to produce wealth, to ensure its just distribution, to spread knowledge, enlightenment and culture. It is to these tasks that India is devoting all its energies and resources. There is no greater travesty of truth than to depict India as Hindu, and, on that basis, to suggest the inevitability of the people of Kashmir merging themselves with Pakistan.

India cannot quarrel if the Government and people of Pakistan wish to build a theocratic society. India's only desire is to keep itself free from the miasma of sectarian and disruptionist politics, which in the past led to so much suffering. India would betray its past heritage if it accepted what Pakistan so clearly desires it to do, viz., to abjure its secularism and become a mere Hindu State. This would involve an even greater betrayal of the cause for which Mahatma Gandhi suffered martyrdom and for

which generations of Indians of all faiths and of all communities sacrificed everything. This is one of the essential reasons for India's rejection of Pakistan's claim to Kashmir.

India will never accept the claim of Pakistan to be the self-styled protector of the interests of three million of Kashmir's Muslims. India safeguards by every means the interests of 40 million Muslims in India ; it is equally capable of safeguarding the interests of another three million.

Those who urge, either through ignorance or through mischief, that these three million Muslims of Kashmir must "naturally" become part of Pakistan, must also provide an answer to the challenging question : should the 40 million Indian Muslims also look to Pakistan for their well-being and protection ?

CHAPTER II

GEOGRAPHY, ETHNOLOGY AND HISTORY OF KASHMIR

The State of Jammu and Kashmir covers an area of 84,471 square miles. Administratively, the State was divided into three provinces: (i) the frontier districts which included Ladakh, Baltistan, Gilgit; (ii) the Jammu province which included the jagirs of Poonch and Chenani.

On the north-east, the State is bounded by Tibet; on the north by Sinkiang, and on the north-west by the Soviet Republic of Turkistan and by Afghanistan.

The country is almost entirely mountainous; it may be geographically divided into three areas: Ladakh and Gilgit in the north; the middle region of the Valley of Kashmir; and the foothills and large level areas of Jammu in the south. These three regions are divided from each other by the snow-bound outer Himalayan ranges.

Srinagar is the summer and Jammu the winter capital of the State.

The ethnic composition of the State of Jammu and Kashmir is complex. The Ladakhi Buddhists and Muslims are of Mongolian origin while the Muslims and non-Muslims of Jammu are descendants of the Indo-Aryans. The people of Jammu have cultural affinities with those of East Punjab, while those of Ladakh—whether Muslims or Buddhists—closely resemble the Tibetan. Linguistically too, the situation is complicated. Among the languages spoken are Kashmiri, Dogri, Punjabi, Gojri and Pahari. In Ladakh the spoken language is called Bodhi, while in Gilgit it is Shinh.

Pakistan's propaganda completely ignores this rich cultural, ethnic and linguistic pattern of the State and bases its claim on nothing more positive than an amalgam of hatreds and cries of "Islam in Danger".

DOGRA DYNASTY

Pakistan's propaganda often contrives to assume an attitude of righteous indignation over the oppressive character of Dogra rule in Kashmir. No one will deny that the rule was autocratic and oppressive, but such oppression had its origin in the political system which the British maintained. It had nothing whatever to do with the religious beliefs of the Rulers.

Pakistan's object in denouncing the obvious facts of Dogra oppression is to create the impression that the leaders of Pakistan, both past and present, and the handful of their henchmen in Kashmir, had, as it were, dedicated their lives to the liberation of Kashmir from the tyranny of the Maharaja. The truth is that Kashmir's struggle for liberation was carried on by the Kashmir National Conference and its leaders, both Hindus and Muslims, made enormous sacrifices to get freedom for Kashmir from the Maharaja's autocratic feudal rule. In 1952, the Constituent Assembly of Kashmir actually abolished the dynastic rule of the Dogras.

KASHMIR NATIONAL CONFERENCE

The map of India, prior to partition on August 15, 1947, presented a perplexing pattern. There were the provinces, and sometimes within their boundaries, there nestled 565 princely domains called the States.

With only a few exceptions, the Indian States were feudal principalities, whose peoples suffered autocratic rule, against which they were powerless, because behind it stood the paramount power of Britain.

For a while, these Indian States acted as islands of autocracy against which the tide of nationalism in British India appeared to beat in vain. But the people in the Indian States began to be affected by the political ferment

in India. In Kashmir too, the people stirred. In 1932, they organised a Muslim Conference. The leaders of the Muslim Conference, however, soon realised the inadequacy of a purely religio-political organisation.

In 1937, the Hindus as well as the Muslims were imprisoned after the agitation launched by the Muslim Conference for responsible government under a constitutional head. The common suffering and the pursuit of common ideals forged a common sense of purpose which cut across religious differences.

Realising that the basic needs of the people, irrespective of their religion, were the same, the Working Committee of the Muslim Conference resolved on June 28, 1938, to alter the structure, the composition and the programme of the organisation. It was thereafter thrown open to all the Kashmiris regardless of their creed; and to symbolise the change, the Muslim Conference became the All Jammu Kashmir National Conference in June 1939. The reactionary and sectarian elements then seceded from the organisation.

The non-sectarian National Conference demonstrated that the Muslims and the Hindus could not only live together but could also co-operate in a joint struggle for their political and economic emancipation. The National Conference, like the Indian National Congress, with its secular approach to politics was, and still is, a serious embarrassment to the protagonists of the two-nation theory.

During the entire period between 1937 to 1946, when the struggle for democracy was being suppressed by the Maharaja of Kashmir, the Muslim League stood aside and even lent support to the Hindu Dogra dynasty which it today so loudly denounces.

In 1946, the National Conference launched the "Quit Kashmir" movement. The Muslim League in India and its supporters in Kashmir, the Muslim Conference, made no contribution whatsoever to this struggle. They stood aside and let the Maharaja carry on the repression. All this, however, changed within a year after Pakistan failed to coerce the State to accede to it.

CHAPTER III

PARTITION AND THE INDIAN STATES

THE conflict between India and Pakistan on Kashmir must be viewed in the general context of India's struggle for freedom and independence, taking into account the manner in which that struggle achieved its objective. The price which India had to pay for the realisation of its dreams was the partition of the country so that healthy nationalism may have the opportunity to grow and flourish in at least the major part of India.

On August 15, 1947, the Prime Minister of India, summed up the inner meaning and purpose of Indian Independence :

It is a fateful moment for us in India, for all Asia and for the world. A new star rises, the star of freedom in the East, a new hope comes into being, a vision long cherished materialises.... The future beckons to us, whither do we go and what shall be our endeavour? To bring freedom and opportunity to the common man, to the peasants and workers of India; to fight and end poverty and ignorance and disease; to build up a prosperous, democratic and progressive nation, and to create social, economic and political institutions which will ensure justice and fullness of life to every man and woman.... We are citizens of a great country, on the verge of bold advance and we have to live up to that high standard. All of us, to whatever religion we may belong, are equally the children of India with equal rights, privileges and obligations. We cannot encourage communalism or narrowmindedness, for no nation can be great whose people are narrow in thought or in action.

While the Indian Independence Act of July 18, 1947, brought about the partition of British India into India and

Pakistan, it failed to provide for the future of the Princely States. The British Parliament was content to leave the matter completely undecided by inserting the following provision in the Act :

As from the appointed day (August 15, 1947)...the Suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act..all obligations of His Majesty existing at that date towards Indian States, or the Rulers thereof, and all powers, rights, authority or jurisdiction exercisable, by His Majesty at that date in or in relation to Indian States...

India viewed with uneasiness and disquiet the possible effects of the Indian Independence Act on the Princely States. It had good reasons : out of 565 of these States, more than 500 were situated well within India's new boundaries. If the Rulers asserted their independence, India would have lost all coherence. There would have been, in addition, a sharpening of the conflict between princely autocracy and Indian democracy. In effect, India feared 'Balkanistan' which so many had predicted as the inevitable consequence of the withdrawal of British power from India.

Pakistan had nothing to fear. It had only a handful of states within its own borders. It was not bothered about the problem of princely autocracy. Accordingly, Pakistan enthusiastically supported, as the Muslim League had always done, the principle of freedom of action for the Princes. On June 17, 1947, Mr. Jinnah* declared:

Constitutionally and legally the Indian States will be independent sovereign States on the termination of Paramountcy and they will be free to decide for themselves to adopt any course they like. It is open to them to join Hindustan (Indian) Constituent Assembly or the Pakistan Constituent Assembly, or decide to remain independent.

*Mohammad Ali Jinnah, President of the Muslim League, architect of Pakistan and its Head of State till his death on September 11, 1948.

A fortnight before the partition on July 7, 1947, Mr. Jinnah declared again:

They are ... free to join either of the two Dominions or to remain independent.

Despite its justifiable fears, India had no legal means of undoing the effect of the Indian Independence Act on the Indian States. India, therefore, turned to the Princes in the hope, firstly, that they would not wish to see the country split up into small bits; and, secondly, that they would be realistic enough to appreciate that the times had changed and that they could no longer rule as they did in the past.

These hopes proved to be well-founded. On July 5, 1947, the Ministry of States was established, and by August 15, 1947, one of the most remarkable changes had been accomplished. By persuasion and peaceful methods, the entire structure of Princely India which had endured for 130 to 140 years under British protection was swept aside. Within this short period more than 500 States were integrated into the uniform administrative and political pattern of India.

Kashmir was one of the three States that had not decided upon the question of accession by August 15, 1947. Pending the decision, the Ruler announced on August 12, 1947, that he would be willing to enter into Standstill Agreements with both India and Pakistan. Three days later, on August 15, 1947, he actually concluded such an Agreement with Pakistan.

Pakistan propagandists contrive to create the impression that the signing of the Standstill Agreement meant that the State of Jammu and Kashmir must necessarily accede to Pakistan. There is no basis for this assertion either in law or in fact. The Standstill Agreement was merely devised to ensure continuity of administrative agreements, as for example, communications; post, telegraphs and telephones; central excise; salt, etc. As the very words imply, the Standstill Agreement was meant to maintain the *status quo*.

quo and did not create rights and obligations which would arise from an act of accession.

Pakistan violated the Standstill Agreement and, immediately after its conclusion, began to apply economic pressure on the State in order to secure its accession. An economic blockade was imposed; essential supplies of kerosene, petrol, foodstuff and salt were cut off. Communications were tampered with, and the railway service between Sialkot (Pakistan) and Jammu was suspended. When the Government of Kashmir protested against this, the Foreign Minister of Pakistan informed the Kashmir Government on October 2, 1947, that "drivers and lorries, for instance, are reluctant to carry supplies between Rawalpindi and Kohala..." Yet drivers and lorries were not lacking in transporting thousands of invaders from the North-West Frontier Province of Pakistan. They were, obviously, too busy preparing for the invasion of Kashmir to spare time to carry food supplies!

Pakistan did not allow matters to rest merely with the imposition of the blockade. All along the Pakistan-Kashmir border raids were organised and armed bands were allowed to infiltrate into Kashmir.

On October 18, 1947, the Government of Kashmir sent a telegram of protest to the Prime Minister of Pakistan. This brought forth a reply from the Foreign Minister of Pakistan on October 19. The reply was one of denials and prevarications, and will be seen from an extract reproduced below :

....We emphatically and categorically deny the allegations and accusations. People travel to and from between Kashmir and Pakistan in the normal course of business but the allegations regarding the free distribution of arms and ammunitions to the Pakistan area adjoining the State borders and the infiltration of armed men into the State territory are incorrect....As regards the alleged action of the West Punjab Government in blocking the passage of petrol, cloth and food and in stoppage of transport we have already informed you that the West Punjab Government have been asked to provide you with all reasonable assistance in these matters. It is entirely wrong to attribute difficult-

ties in transport which have risen owing to circumstances beyond the control of the West Punjab Government to the unfriendly intentions of that Government or to regard it as an act of coercion on your Government in taking a decision about the accession of the State.

It should be noted that on October 19 Pakistan was loudly protesting against the Government of Kashmir's allegation that Pakistan was attempting to coerce the State into accession; on October 22 a full-scale invasion of Kashmir took place.

It was only when the invasion failed to secure Kashmir's accession that Pakistan became imbued with the ardour of the newly converted and began to champion the cause of the people of Kashmir, jettisoning its views on the "sovereignty" of the Princes. But Pakistan's new championship of the cause of the people of Kashmir had by now become indissolubly linked up with its naked aggression in Kashmir.

These are the undisputed facts: Pakistan was slow in discovering the Dogra tyranny. It took even longer to discover that the "freedom of choice" it was willing to concede to the Princely States ran counter to the most elementary principles of democracy. And when Pakistan began championing the rights of the Muslims, it was only to camouflage its aggression in Kashmir.

THE INVASION

The State of Jammu and Kashmir was invaded on October 22, 1947. The invaders advanced rapidly besieging the towns of Mirpur, Poonch, Kothi, Jhanger, Naoshera and Bhimbar. On the fourth day of invasion (October 26, 1947) they swept into Baramula, the only major town on the open road to Srinagar, thirty-five miles further south-east. The invaders indulged in indiscriminate looting, pillaging, burning and abduction. Baramula was sacked. Out of its 14,000 inhabitants only 3,000 survived. The next day, on October 27, 1947, the invaders came nearer Srinagar.

In the meantime the Governor-General of Pakistan, Mr. Jinnah, left Karachi and arrived at Abbottabad. This

was a significant event. Alan Campbell-Johnson, Public Relations Officer to Lord Mountbatten, made the following entry in his diary on October 28, 1947*.

About an hour later, Stephens** was with us, and Mountbatten began by saying, 'You can't build a nation on tricks'. Jinnah at Abbotabad, he continued, had been expecting to ride in triumph into Kashmir.

The Ruler of Kashmir turned to India for help as a matter of last resort. In a letter dated October 26, 1947, addressed to Governor-General, Lord Mountbatten, he wrote :

...With the conditions obtaining in my State and the great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally, they cannot send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach the Instrument of Accession for acceptance by your Government.

India accepted accession on October 27, 1947. On that day the invaders were barely four and a half miles from the capital, Srinagar. The situation was grave. The only redeeming feature was the calmness and determination prevailing in Srinagar. The self-styled liberators of the Kashmir Muslims were being fought by the very people whom they had allegedly come to liberate.

Early in the morning on October 27, the Government of India dispatched by air three hundred and thirty men. They landed at a small and precarious air strip. But they arrived just in time to save Srinagar from sharing the fate of Baramula.

Three British officers who were in the best position to know what actually took place have testified to the last-minute character of India's assistance to Kashmir. These officers were in charge of Indian armed forces. They were:

**Mission with Mountbatten*, by Alan Campbell-Johnson, Robert Hale Ltd., 1951.

**Ian Stephens was from 1943-51 editor of the British-owned newspaper in India, *The Statesman*.

General R. M. Lockhart, Commander-in-Chief of the Indian Army ; Air Marshal T. W. Elmhirst, Commander of the Royal Indian Air Force ; and Rear Admiral J. T. S. Hall of the Royal Indian Navy. They jointly issued the following statement :

The following is a true time-table of events, as regards decisions taken, plans made, orders given and movement started in this matter:

1. On October 24, the Commander-in-Chief, Indian Army, received information that tribesmen had seized Muzaffarabad. This was the first indication of the raid.

2. Prior to this day, no plans of any sort for sending forces into Kashmir had been formulated or even considered. On the morning of October 25, we were directed to examine and prepare plans for sending troops to Kashmir by air and road, in case this should be necessary to stop the tribal incursions. This was the first direction which we received on this subject. No steps had been taken prior to the meeting to examine or prepare such plans.

3. On the afternoon of October 25, we sent one staff officer of the Indian Army and one of the Royal Indian Air Force by air to Srinagar. There they saw officers of the Kashmir State Forces. This was the first contact between officers of our headquarters and officers of the Kashmir State Forces on the subject of sending Indian troops to Kashmir.

4. On the afternoon of October 25, we also issued orders to an infantry battalion to prepare itself to be flown at short notice to Srinagar in the event of the Government of India deciding to accept the accession of Kashmir and to send help.

5. On the morning of October 26, the staff officers mentioned in paragraph 4 above returned from Srinagar and reported on their meetings with officers of the Kashmir State.

6. On the afternoon of October 26, we finalised our plans for the dispatch by air of troops to Kashmir.

7. At first light on the morning of October 27, with Kashmir's Instrument of Accession signed, the movement by air of Indian forces to Kashmir began. No plans were made for sending these forces, nor were such plans even considered before October 25, three days after the tribal incursions began.*

*Security Council Official Records, pp. 222-3.

ACCESSION

It has been already noted, that the partition scheme, under which certain territories of British India were carved out to create the new state of Pakistan, did not apply to the Indian Princely States. The British Government made a specific announcement to this effect on June 3, 1947 :

His Majesty's Government wish to make it clear that the decisions announced (about partition) . . . relate only to British India and that their policy towards Indian States contained in the Cabinet Mission's memorandum of 12 May, 1946 remains unchanged.

The Cabinet Mission's Memorandum of May 12, 1946, which was presented to the Chancellor of the Chamber of Princes envisaged the future of the Indian Princely States as follows :

When a new fully self-governing or independent Government or Governments come into being in British India. His Majesty's Government's influence with these Governments will not be such as to enable them to carry out the obligation of paramountcy. Moreover, they cannot contemplate that British troops would be retained in India for this purpose. Thus, as a logical sequence and in view of the desires expressed to them on behalf of the Indian States, His Majesty's Government will cease to exercise the powers of paramountcy. This means that the rights which flow from their relationship to the Crown will no longer exist, and that all the rights surrendered by the States to the paramount power will return to the States. Political arrangements between the States, on the one side, and the British Crown will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India or failing this, enter into particular political arrangements with it or them.

As suggested in the Memorandum, the States could enter into a "federal relationship with either India or Pakistan, by executing an Instrument of Accession." The Indian Independence Act of 1947 and the Government of India Act of 1935 made provision for this as will be seen from

the following recital in the standard form of the Instrument of Accession* :

WHEREAS, the Indian Independence Act, 1947, provides that as from the fifteenth day of August 1947, there shall be set up an independent Dominion known as INDIA, and that the Government of India Act, 1935, shall with such omissions, additions, adaptations and modifications as the Governor-General may by order specify be applicable to the Dominion of India;

AND WHEREAS the Government of India Act, 1935, as so adapted by the Governor-General, provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof:

NOW THEREFORE I.....

Ruler of.....
in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession.

The Instrument of Accession executed by the Ruler of Kashmir was in no way different from that executed by some 500 other States. It was unconditional and was not subject to any exception. It was absolute in the case of Kashmir as it was in the case of other States. And as in the case of other States, the Instrument of Accession brought the State of Jammu and Kashmir into the Indian Union and bound the two together, legally and constitutionally.

Relying upon a natural lack of detailed knowledge in other countries of the actual position obtaining at the time of partition, Pakistan propagandists attempt to impugn the legal validity of Kashmir's accession to India. Such attempts are, obviously, misdirected. Any one acquainted with the legal provisions would readily agree with the following conclusion reached by Alan Campbell-Johnson** on this question :

The legality of the accession is beyond doubt. On this particular issue Jinnah has been hoist with his own petard....

At no time during the debates and discussions in the Security Council was the legality of accession of Kashmir to India ever called into question. The resolutions adopted

*See Appendix I.

**Mission with Mountbatten.

by the U.N. Commission on India and Pakistan on August 13, 1948, and January 5, 1949, were, in fact, predicated on the assumption that the accession was perfectly legal.

The resolution of August 13, 1948, required Pakistan to withdraw its army, tribesmen and its nationals who went there for fighting ; this provision was, obviously, made because Pakistan had no legal status in Jammu and Kashmir. Furthermore, the right of India to maintain forces in Jammu and Kashmir for the purpose of defence and for assisting the local authorities in the observance of law and order was clearly recognised. Again, in the resolution of January 5, 1949, the proposed Plebiscite Administrator was to be appointed by the Jammu and Kashmir Government from whom he was to derive the powers necessary for organising and conducting the plebiscite, and to whom, along with the Security Council, he was to submit the result of the plebiscite. In addition, the right of the Indian Army to defend the State was clearly affirmed in clear and specific terms. In the light of these undisputed facts, it is disingenuous for Pakistan to contest the legality of the accession of Jammu and Kashmir to India.

The Instrument of Accession signed by the Ruler of the State of Jammu and Kashmir and accepted by the Governor-General of India, Lord Mountbatten, finally determined the legal and constitutional relationship between India and the State. It would be absurd to attempt to derogate from the complete legality of the accession by characterising India's position as "legalistic." The rights and duties imposed upon India and Kashmir by virtue of the accession are not "legalistic" but lawful and constitutional and cannot be impugned. When Pakistan asserts that it did not "recognise" the accession of Kashmir to India it is using a phrase devoid of any meaning and substance. The accession of a State was purely a matter between the acceding State and the Government of either of the two Dominions to which it desired to accede. The accession of each State in India was complete on these very terms. It did not require "recognition" to be effective.

Not only did India have legal rights and obligations arising out of Kashmir's accession, but certain responsibilities to the people of Kashmir who were united to the people of India by the bonds of a common struggle. Only a year before India became independent, on June 19, 1946, Jawaharlal Nehru who was then President-elect of the Indian National Congress and President of the States National Congress was prevented by the Ruler of Kashmir from entering the State. Bayonets had barred his way at Kohala and he was arrested there and was taken away to be detained in Uri. The Government of India could not forget all this background of common struggle. This would explain why India insisted that despite critical conditions in the State, created by Pakistan's aggression, popular rule should be established in Kashmir immediately. Accordingly, a Government led by the National Conference of Kashmir was established. Men and women of the State who had for the greater part of a generation struggled for the freedom of Kashmir, rallied behind that Government. And thus Muslims, Hindus, Sikhs and Buddhists united to prevent the self-styled "liberators" of Kashmir from advancing into the Valley.

As for the future, India, while accepting the Instrument of Accession, made the matter clear in Lord Mountbatten's letter to the Maharaja :

...it is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the State's Accession should be settled by a reference to the people.

India was under no obligation to commit itself in any way to ascertain the wishes of the people of Kashmir. But throughout India's national struggle for freedom which embraced the people of the Indian States as well, the object was always to secure the rights of the people as against the purely dynastic rights of the Princes. India's unilateral declaration in regard to ascertaining the wishes of the people was meant to emphasise the fact it was with the

people of the State that India wished to unite and not the Ruler.

During the last eight years and more India's conduct has been wholly consistent with its unilateral declaration to the people of Kashmir State. It is Pakistan which has frustrated the implementation of it. Pakistan's continued occupation of territories of Kashmir has made it impossible for India to ascertain the wishes of the people of the State as a whole. It is urged that India should forget Pakistan's aggression and occupation. But the constant outpour of warlike threats and menaces against India by Pakistan's press and politicians keeps Pakistan's aggression ever fresh in the minds of the Government and people of India.

REFERENCE TO THE UNITED NATIONS

The Government of India made repeated requests to the Government of Pakistan to deny facilities to the invaders but there was no response. In a telegram dated November 6, 1947, from the Prime Minister of Pakistan to the Prime Minister of India, the former asserted that "we have no control over tribesmen engaged in fighting..." He then demanded that "both the forces of Indian Dominion and tribesmen withdraw simultaneously and with utmost speed from Jammu and Kashmir State territory." This proposal was clearly meant to add insult to injury. The Prime Minister of India in his reply dated November 8, 1947, posed the issue quite clearly in the following terms:

The raiders are either under your control, or they are not. If they are under your control, you should withdraw them and, in any event, stop them coming through Pakistan's territory into Kashmir. If they are not under your control and you can do nothing to stop them, then surely we are entitled to deal with them, as we think best.

On December 22, 1947, the Prime Minister of India personally handed over to the Prime Minister of Pakistan a letter in which the details of the aid and assistance which the raiders had been receiving from Pakistan were cited.

The letter formally asked the Government of Pakistan to deny to the raiders :

1. access to the use of Pakistan territory for operations against Kashmir;
2. all military and other supplies;
3. all other kinds of aid that might tend to prolong the present struggle.

No reply was received to this letter. On December 26, 1947, the Prime Minister of India requested for a very early reply to it. Pakistan, however, remained silent.

India had to make a most difficult decision. Pakistan was carrying on an undeclared war in Kashmir. All along the Pakistan-Kashmir border, there were a large number of bases where invaders were being collected and from where supplies and services to them were being organised. In these circumstances, India would have been perfectly justified in attacking the bases and rendering them ineffective; but in its anxiety not to aggravate Indo-Pakistan relations, India deliberately disregarded the dictates of military necessity and decided to refer the Kashmir dispute to the Security Council in the legitimate hope that the United Nations would bring to bear the weight of world public opinion upon Pakistan and prevail upon it to discontinue its aggression in Kashmir.

On December 31, 1947, the Prime Minister of India informed the Prime Minister of Pakistan that India had decided to refer the Kashmir question to the Security Council.

On January 1, 1948, India, invoking Articles 34 and 35 of the Charter of the United Nations, complained to the Security Council that Pakistan was aiding its own nationals and tribesmen in the invasion of the State of Jammu and Kashmir and that such assistance constituted an act of aggression. India, therefore, requested the Security Council:

1. to prevent Pakistan Government personnel, military and civil, from participating or assisting in the invasion of Jammu and Kashmir State;

2. to call upon other Pakistan nationals to desist from taking any part in the fighting in Jammu and Kashmir State;

3. to deny to the invaders, (a) access to and use of its territory for operations against Kashmir, (b) military and other supplies, (c) all other kinds of aid that might tend to prolong the present struggle.

The Indian complaint was backed by a mass of evidence, which now forms part of the proceedings of the Security Council. To the initial evidence, India added more from time to time. On April 19, 1948, India specifically pointed out to the Security Council :

The number of tribesmen and other outsiders has run into thousands for several months....Short of obtaining an official declaration of war by the Pakistan Government ...the invaders have been and are obtaining all other help and assistance from the Pakistan territory....The mountain battery of Pakistan army in civilian dress has been sent to the front ...This battery has been observed in action by our troops at one of those fronts.

Pakistan continued to plead ignorance and protested innocence.

The following extracts from the documents filed by Pakistan with the Security Council in reply to India's charges are of interest :

Kashmir provides the culminating illustration of the hostility of the India Government to Muslims and Pakistan and their determination to satisfy their imperialistic ambition of rule over the entire sub-continent by Fascist tactics and use of naked force....The Pakistan Government emphatically repudiate the charges that they have supplied military equipment, transport and supplies to the invaders or that Pakistan officers are training, guiding and otherwise helping them.

It is best to leave the extract quoted above without comments.

PAKISTAN'S AGGRESSION PROVED

It was not until July 1948 that the U.N. Commission charged with the responsibility of investigating India's complaint arrived in Karachi. But by then Pakistan had already accomplished its purpose.

Pakistan had occupied a part of Kashmir and had dispatched its own regular army into the State. Having accomplished its purpose, it was no longer necessary for Pakistan to resort to concealments and, in any case, the U.N. Commission having arrived, Pakistan could not, any longer, deny its direct participation in aggression against Kashmir. And thus the facts which India had been citing as evidence for eight months had to be publicly acknowledged.

How did Pakistan admit its participation ? The U.N. Commission left Switzerland on July 5, 1948. The next day it arrived at Karachi. Soon after its arrival, the Pakistan Foreign Minister, Sir Zafrullah Khan, met the members of the Commission and gave them a discourse for three hours. At the end of it he blindly announced that three Pakistani brigades had been on Kashmir territory since May 1948, adding that Pakistan had to send them in "self-defence."

When asked to explain why Pakistan had not promptly informed the Security Council or the Commission—as it was explicitly required to do under the Security Council's resolution—Sir Zafrullah Khan laconically explained that he was merely waiting for the Commission to come to Karachi. It did not require any great astuteness to realise that this explanation represented the most cynical attitude towards international law and morality. There was obviously no difficulty whatever in conveying the information at once—in May—to the Security Council or to the Commission which was at that time assembling itself in Geneva.

Sir Zafrullah's statement that Pakistan troops were moved into Kashmir in May is significant. For, in April, the Security Council itself was in session, and the Pakistan Foreign Minister was busy denying the specific allegations made by India that Pakistan armies were in operation in Kashmir. Even in its admission at this late stage, Pakistan suppressed the real truth which was that regular units of the Pakistan Army had been operating in Kashmir not since May, but since November 14, 1947. As for the plea of self-

defence it was truly amazing ; the insinuation was that India contemplated an attack on Pakistan and that it was going to launch the attack through Kashmir. To this day Pakistan has not been able to produce a single piece of evidence to support these reckless allegations. As for attacking Pakistan through Kashmir territory the suggestion was absurd on the face of it. It meant that India had deliberately chosen to conduct military operations against Pakistan not only on a wide front but over the least suitable terrain and with extended lines of communications.

One of the members of the Commission described Pakistan's disclosure as a " bombshell ". It might have been thought that the Commission would have reported this " new " fact at once to the Security Council and that the Council would have met immediately to consider the situation. However, neither the Commission nor the Council acted upon Pakistan's admission of direct participation in the war. This further emboldened Pakistan. On August 4, 1948, Karachi admitted that even the so-called " Azad " Kashmir forces were under the overall command of the Pakistan Army. This was the last straw and on August 13, 1948, after prolonged consultations, the Commission adopted a resolution which, for the first time, endeavoured to recognise to some extent the harsh realities of India's complaint. The relevant clause read :

As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops.

Despite this resolution, Pakistan did not withdraw its troops but, in fact, continually reinforced them. Two years later on September 5, 1950, the U.N. mediator, Sir Owen Dixon, reaffirmed what the Commission found in July 1948, and reported :

...Without going into the causes or reasons why it happened... I was prepared to adopt the view that when the frontier of the

State of Jammu and Kashmir was crossed...by hostile elements, it was contrary to international law and that when in May 1948 units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with international law.

On November 2, 1947, referring to the tribal invasion of Kashmir, the Prime Minister of India had asked a simple question : "Is this not a violation of international law?" It took three years to get an answer to the question. And it was in the affirmative.

Pakistan was and remained an aggressor. And its transgressions were further aggravated by its constant denials until it could hide the facts no longer.

CHAPTER IV

KASHMIR IN THE UNITED NATIONS

INDIA had lodged the complaint in the Security Council against Pakistan's aggression on January 1, 1948. On January 17 the Council passed a resolution which called on India and Pakistan :

...to refrain from making any statement and from doing...or permitting any acts which might aggravate the situation; to inform the Security Council immediately of any material change in the situation....

Pakistan proceeded to defy the resolution with impunity. Vociferously denying its complicity in the invasion of Kashmir, it sent its regular armies into Kashmir in March 1948, and certain of its units were actually in action since November 14, 1948. Pakistan did not inform the Security Council about this "material change in the situation". As already noted, it was only when the U.N. Commission arrived in Karachi in July 1948 that it confessed.

On January 20, 1948, another resolution was adopted by the majority of the members of the Security Council. It appointed a Commission to investigate the facts and to exercise mediatory influence. When India insisted on giving priority to the question of securing the cessation of hostilities, Pakistan and its supporters argued that fighting could only stop if the conditions of a plebiscite were agreed to and were such that the aggressor was satisfied with their "fairness".

Pakistan's delegate said :

In my conception infinitely the best way to stop the fighting is to assure those who are engaged in it that a fair settlement

-will be arrived at under which their rights will be assured.

The argument when analysed amounted to saying that those who were engaged in aggression, *viz.*, Pakistan and the tribesmen, were justified and that they would stop fighting only when assured of the fruits of aggression. No other interpretation is possible particularly when one considers that Pakistan's conception of a "fair settlement" included :

1. the withdrawal of Indian troops; and
2. the removal of the legal and duly constituted Government of Kashmir.

India, naturally, could not agree to such proposals and the Prime Minister of India was constrained to observe :

Instead of discussing and deciding our references in a straightforward manner, the nations of the world sitting in that body got lost in power politics....It is neither the realities of the situation nor the ability with which a case is put forward that weigh with these powers.

It was not until April 21, 1948, that the Security Council adopted another resolution sponsored by Belgium, Canada, China, Colombia, the United Kingdom and the United States. It was adopted by nine votes to zero, the USSR and Ukraine abstaining.

The resolution of April 21 called upon Pakistan "to use its best endeavour" to secure the withdrawal of tribesmen and Pakistan nationals, to prevent any "further intrusion" into the State, and to refrain from aiding "those fighting in the State." India was permitted "a minimum force to aid the Government of Kashmir in the maintenance of law and order." India's withdrawal of its forces was, however, not to begin until after the Commission (and not Pakistan) was satisfied that "the tribesmen are withdrawing and that arrangements for the cessation of fighting have become effective."

One might have reasonably expected that the Council, having called upon Pakistan to do certain acts, would have concentrated its efforts on the immediate restoration of peace in Kashmir. But the real intention of the resolution was apparently to sidetrack this main objective by dealing with other problems, e.g., installing of an interim Government in Kashmir and the appointment of a Plebiscite Administrator. The resolution was a typical example of crossing the bridge before reaching it. The Plebiscite Administrator was conceived as a super-ruler of Kashmir with unlimited and unprecedented authority. For these reasons India rejected the resolution. Its delegate to the Security Council tried, in vain, to focus the attention on the main problem :

This cold shouldering of our main complaint has hurt us, our Government and my nation deeply....Instead of taking....action earlier, India's complaint was placed in cold storage for nearly four months, four months of continued bloodshed and economic ruin. And at the end of it all we were exhorted....to agree to a resolution niggardly in its recognition of the merits of the matter, vague and indefinite in the wording of the action to be taken by Pakistan. And in the interpretation of that language the Security Council has gone even further and been apologetic to Pakistan for reminding it of its duty. India cannot, in honour, agree to this treatment of its case.

The Pakistan delegate, emboldened by the connivance at the aggression, found the resolution unacceptable unless, among other things, Pakistan was permitted to send its "troops and police into Kashmir" to bring about the withdrawal of the tribesmen. When it is recalled that Pakistan, despite the straight-faced denials, had already dispatched its armies into Kashmir, it will be realised that the seemingly "innocuous" attempt to secure the Council's "permission" was meant to legalise Pakistan's continued aggression. Pakistan's armies in Kashmir, instead of "effecting withdrawal of the tribesmen," were engaged in perpetuating the initial aggression.

In order to establish an "impartial" government in Kashmir, Pakistan's delegate urged that the resolution of

April 21 did not go far enough. He therefore proposed that such a government should include representatives of the so-called "Azad" Kashmir and the Muslim Conference. This was unabashed political dictation backed with aggression. No wonder the Security Council found these proposals too daring and rejected them. Pakistan then rejected the resolution of April 21.

Between April 21 and July 5 nothing further took place. Fighting went on in Kashmir. Pakistan's regular armies were now deployed in open aggression in Kashmir.

THE UNITED NATIONS COMMISSION

The U.N. Commission, constituted under the Security Council's resolution of April 21, arrived at Karachi on July 7, 1948. Soon after, Pakistan's Foreign Minister informed the Commission:

...that the Pakistan Army had at the time three brigades of regular troops in Kashmir, and that troops had been sent into the State during the first half of May 1948.

The effect of this disclosure on the Commission is best described by one of its members, Joseph Korbel* :

The Commission preferred not to express its opinion openly about this new and most important element in the picture, but to one another the members admitted that the presence of the Pakistan troops in Kashmir made of the situation something far graver and far more disturbing than what it had appeared to be to the members of the Security Council....

India could derive no satisfaction from the fact that the U.N. Commission had after eight months discovered the truth of India's allegations, for, by now, Pakistan had entrenched itself in Kashmir in flagrant violation of international law and morality.

**Danger in Kashmir*, by Joseph Korbel, p. 121.

The predicament in which the Commission found itself was described by Korbel* :

...it explained to the Pakistanis the movement of these troops into foreign territory without the invitation of that territory's Government was a violation of international law; it had seriously aggravated the problem and had given India certain rights to complain. These complaints, it then further explained, must be reflected in any Commission's finding, and, moreover, the Commission would necessarily, on the same ground, have to give some expression to the complaint. Having thus prepared Pakistan for what was coming the Commission prepared a resolution and adopted it on Friday August 13.

RESOLUTION OF AUGUST 13, 1948

The resolution of August 13, 1948, represented a significant landmark in the history of the Kashmir conflict. It bore the impress of Pakistan's admission of aggression; consequently, it could not but accept India's legal and moral position in the dispute. The resolution consisted of three parts :

Part I dealt with the establishment of a cease-fire;

Part II with the truce agreement; and

Part III dealt with the determination of the future status of the State of Jammu and Kashmir in accordance with the will of the people.

The important point about Part I relating to the cease-fire was that it gave no recognition whatever to the so-called "Azad" Kashmir forces; the responsibility for effecting the cease-fire was exclusively put on the High Command of India and Pakistan.

The most important part of the resolution was, naturally, Part II, relating to the truce agreement. It began by recognising the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir, "constituting a material change in the situation". The resolution then

*Danger in Kashmir, p. 140.

proceeded to lay down conditions for making the truce effective :

1. All Pakistan troops as well as tribesmen and Pakistan nationals were to be withdrawn.

2. The territory evacuated by the withdrawal of such troops, tribesmen and Pakistan nationals, was not to be administered by Pakistan, but by the "local authorities under the surveillance of the Commission."

3. Only when arrangements for withdrawal of all Pakistan troops, tribesmen and Pakistan nationals from the State of Jammu and Kashmir had been made, and upon notification to the Government of India by the Commission that such withdrawal was, in fact, being effected, would the Government of India "begin to withdraw the bulk of its forces from (that) State in stages to be agreed upon with the Commission."

4. India was permitted to maintain certain minimum strength of its forces, which, "in agreement with the Commission are considered necessary to assist the local authorities in the observance of law and order."

The resolution was far from satisfactory from India's point of view. Commenting on it, the Prime Minister of India said :

There are many parts of it which we would have preferred to be otherwise, and more in keeping with the fundamental facts of the situation, specially the flagrant aggression of the Pakistan Government on the Indian Union territory.

The resolution was vague ; it completely omitted to mention the crucial issue of the northern area which Pakistan had forcibly occupied. There were no provisions for the disbanding and disarming of the so-called "Azad" Kashmir forces.

Despite these serious shortcomings, India, in its anxiety to restore peace at the earliest possible opportunity, accepted the resolution on August 20. In doing so it made the following reservations to which the Commission gave its unqualified acceptance :

1. the proposed administration by "local authorities" of the territory evacuated by Pakistan troops could not question the sovereignty of the Jammu and Kashmir Government in that area nor afford any recognition to the "Azad" Kashmir authorities;

2. the time when the withdrawal of Indian forces... is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State would be decided by India and the Commission—to the absolute exclusion of Pakistan; further, the paramount need for security is recognised", i.e., the size of Indian forces which were to remain in Kashmir should be conditioned by the need to ensure its security against external aggression;

3. Part III (of the resolution) does not in any way recognise the right of Pakistan to have any part in a plebiscite.*

Pakistan made so many reservations that the Commission felt that it was tantamount to a *de facto* rejection.

The Commission found the various provisos suggested by Pakistan "beyond the compass of this resolution, thereby making impossible an immediate cease-fire and the beginning of fruitful negotiations between the two Governments and the Commission."

As a result of Pakistan's virtual rejection of the August 13 Resolution, complete deadlock ensued. The Commission reported the matter to the Security Council. The Council, however, directed the Commission to continue its efforts for a solution. On December 11, 1948, the Commission formulated certain proposals in elaboration of Part III of August 13 Resolution. These proposals gave some recognition to the objections India had voiced at the time of adoption of April 21 Resolution. The Plebiscite Administrator under the new proposals was to be appointed by and to receive his powers from the lawful Government of the State of Jammu and Kashmir.

As for Pakistan's *locus standi*, the Commission completely excluded it from having any role in the final disposal of Indian troops; and the Government of Kashmir was recognised as the Interim Government.

The Prime Minister of India requested certain clarifications. The Commission set those out in two *Aide Memoires* dated December 20 and 22, 1948. These were:

1. that Pakistan must implement the first two parts of the August 13 Resolution before India could accept the proposals for

* UNCIP First Interim Report, para 78.

a plebiscite, i.e., the Commission's proposals of December 11, 1948;

2. that the Plebiscite Administrator would have limited powers and would deal only with the organisation of the plebiscite itself;

3. that the term "freedom of speech" during a plebiscite did not imply the right of Pakistan propagandists to play upon religious fanaticism; and

4. that there should be "large-scale disarming" as well as disbanding of the Azad Kashmir forces.*

Pakistan this time effected a complete volte face and accepted the Commission's proposals of December 11 which were, in all essential respects, based on the resolution of August 13.

Exercising great self-restraint despite a favourable military position, India brought about a Cease-Fire Agreement on January 1, 1949. On January 5, 1949, the Commission adopted a resolution which formally set forth the various steps to be taken before a plebiscite was to be held.

India had every reason to hope that with the achievement of the cease-fire, the U.N. Commission would take immediate and effective steps to give effect to the resolutions of August 13 and January 5. Since these resolutions had prescribed the various stages for a truce agreement and the holding of a plebiscite, there was no anticipation of any difficulties. But these hopes were, step by step, frustrated by Pakistan and its supporters.

Instead of the cease-fire being a starting point for the withdrawal of its armed forces, its nationals and tribesmen, Pakistan utilised it for entrenching itself militarily in the occupied part of Kashmir. Instead of "disbanding and disarming of Azad Kashmir forces", Pakistan used every device for strengthening them and integrating them under its command.

Referring to those forces the Commission observed :

There is, indeed, no doubt that the "Azad" forces now have a strength which changes the military situation and to that extent makes the withdrawal of forces, particularly those of India, a far

*UNCIP Second Interim Report, Annex. 4.

more difficult matter to arrange within a structure which considers only the regular forces of two armies.

It was because of this that the Commission in December 1949, advised its own disbandment and the appointment of a single mediator. While the Commission had succeeded in giving effect to the main object of the first part of the August 13, 1948, Resolution, it could not give effect to the second part which envisaged a truce agreement. Pakistan refused to even discuss the disbanding of the so-called "Azad" Kashmir forces. The Commission recommended to the Security Council in its report of December 9, 1949, that it be disbanded and be replaced by a single mediator.

THE U. N. MEDIATORS

During the years 1950-53, the Security Council appointed three mediators: General McNaughton, Sir Owen Dixon and Dr. Frank Graham.

The characteristic feature of the efforts made by the mediators was over concentration on the mechanics of a plebiscite and almost total neglect of the August 13, 1948, Resolution.

General McNaughton proposed that India and Pakistan must withdraw simultaneously. It will be recalled that this was Pakistan's own suggestion, but the Commission had rejected it, insisting in its August 13, 1948, Resolution that Pakistan must withdraw first and that India would begin withdrawal only when Pakistan had completely withdrawn. Its revival by General McNaughton did not endow it with any new quality. It remained, as it always was, a purely partisan proposal of Pakistan. Other proposals made by General McNaughton were no better; their dominant feature being the equation of the aggressor and the lawful defender. General McNaughton's informal mediation thus came to an end. He was succeeded by Sir Owen Dixon.

SIR OWEN DIXON

Sir Owen Dixon arrived in the sub-continent of India

on May 27, 1950. He continued his consultations until the end of August. His mission, however, met with no success. The causes of his failure are not far to seek.

In his report which was published on September 15, 1950, he recognised that Pakistan was twice guilty of aggression. But this recognition was treated by him as of academic importance and he drew no practical conclusions from it. He went on to propose :

1. that Indian troops must withdraw from Kashmir after the withdrawal of Pakistan troops;
2. that both Azad Kashmir and Kashmir Government forces should be disbanded and disarmed.

Sir Owen Dixon did not take into account the fact that on the withdrawal of Indian forces from Kashmir and with the disbanding and disarming of Kashmir Government forces, the only guarantee of Kashmir's security would be Pakistan's good faith. This meant relying on the good faith of a country which Sir Owen had already pronounced as having committed violations of international law. No country which has had experience, such as India had, could possibly accept such a guarantee based on a presumption of the aggressor's good faith. Moreover, Pakistan had done nothing, since the original aggression, to inspire confidence. India could not therefore accept Sir Owen Dixon's proposals.

In his report, Sir Owen Dixon said that it would be better to allow the parties themselves to seek agreement by direct negotiations, and that he was not "prepared to recommend any further action by the Security Council." He also stated it as his view that if there was "any chance of settling the dispute over Kashmir by agreement between India and Pakistan, it now lies in partition and in some means of allocating the Valley rather than overall plebiscite." In support of this conclusion he cited the heterogeneity of Kashmir and the serious problem of refugee migration which an overall plebiscite would cause. This is where matters rested until the end of 1950.

KASHMIR'S CONSTITUENT ASSEMBLY

Although Sir Owen Dixon had submitted his report on September 15, 1950, the Security Council took no interest in it for nearly five months. The Council then met to consider a joint U.K.-U.S. resolution. This was merely an amalgam of earlier resolutions and proposals. What was new in it, however, was an express criticism of India for sanctioning the convening of the Constituent Assembly in Kashmir.

India could not fail to notice that the Security Council, under the initiative of the United Kingdom and the United States, showed great keenness in criticising India on a matter merely of domestic significance; they contrasted this with the long and bitter silence of the Security Council on India's complaint against Pakistan's aggression.

Pakistan propagandists, ever eager to paint Indian policies black, talked as though convening of the Constituent Assembly was some new trick. But there was nothing new in it nor was it a trick. The idea of convening the Constituent Assembly for the State was older even than the partition of India and would have been given effect to but for the invasion of the State after partition.

When the National Conference formed the Interim Government early in 1948, it was made expressly clear that as soon as normal conditions were restored, steps would be taken to convene a National Assembly based upon adult suffrage to frame a constitution for the State. The convening of the Assembly was thus a natural outcome of the desire of the people of the State to have a democratic government responsible to the legislature elected by the people. The fact that the invasion of Kashmir had necessitated delay was no justification for depriving the people of Kashmir of the right to decide upon the form of government under which they wished to live.

India's representative explained to the Security Council that the Constituent Assembly would be addressing itself to the task of framing a constitution for the State and

providing it with the legislative machinery necessary for the Government of the State to function in responsibility to duly elected representatives of the people.

Despite India's reasonable and patient explanation, the Security Council proceeded to adopt the U.K.-U.S. resolution, which, *inter alia*, appointed the third mediator, Dr. Frank Graham.

THE GRAHAM MISSION

Dr. Frank Graham's mediatory efforts lasted for two years (1951-53) in the course of which he submitted five reports to the Security Council. The central feature of Dr. Graham's efforts was the reduction of the entire problem to a simple technical level, *viz.*, to the problem of determining the quantum and the character of forces to be stationed on either side of the cease-fire line in Kashmir. His final proposal was as follows :

On the Pakistan side...(of the cease-fire line) an armed force of 6,000...separated from the administrative and operational command of the Pakistan High Command with no armour or artillery; on the Indian side ...an Indian armed force of 21,000 including State armed forces...without armour or artillery.

India accepted the proposed figure for its side of the cease-fire line in spite of the fact that it had persistently demanded 21,000 troops excluding the Kashmir State Militia of 6,000. It, however, rejected the suggestion of 6,000 armed troops in "Azad" Kashmir, but, as a concession, it was prepared to agree to a civil armed force of 4,000. Pakistan, however, rejected the proposals altogether charging that "the figures now proposed have avowedly no other object than to meet India's wishes... (the proposal) amounts in effect to an endorsement and abetment of the Indian attitude".

Pakistan's Foreign Minister then made a "dramatic" offer which deceived no one. He said with a gesture of magnanimity that India could retain 28,000 troops in Kashmir (including State Militia) "without armour and artillery." "On our side", he said, "we will carry out full

obligations undertaken by us under the (August 13) Resolution". Pakistan had between the date of the resolution of August 13, 1948, and Dr. Graham's Fifth Report of March 27, 1953, built up and equipped an efficient force of about 35,000 local troops under the Pakistan High Command, another material change since the August 13, 1948 Resolution and this explains the Pakistan Foreign Minister's gesture.

The Prime Minister of India exposed the true character of this "great gesture" when he said :

This means that while Dr. Graham was discussing a reduction of forces and had suggested that Pakistan might retain a few thousands, according to Zafrullah Khan, Pakistan could retain anything from 25,000 to 35,000 troops there (in Kashmir) because he does not call them Pakistan troops. He calls them Azad troops. Really this suggestion is ingenious and can only take in the unwary and those who do not know the facts of the case.

Dr. Graham in his final report dated March 27, 1953, did not request an extension of his mandate. He followed Sir Owen Dixon in recommending direct negotiations between India and Pakistan. Thus matters stood in 1953. India welcomed direct negotiations as suggested by Dr. Graham. The Prime Minister of India went to Karachi and had talks with the Prime Minister of Pakistan. These conversations were later continued in New Delhi.

CHAPTER V

DIRECT NEGOTIATIONS

WHILE these hopeful initial contacts were being established, the Pakistan press and politicians launched one of the most violent and vicious campaigns against India. It was chiefly directed towards the retention of Admiral Chester Nimitz of the United States as the Plebiscite Administrator. India could not understand this sudden interest in the Admiral. They had nothing against Admiral Nimitz. But the Prime Minister of India had in a frank and friendly way suggested to the Prime Minister of Pakistan that if "we are to get on with this question of Kashmir as we want to get on, we must try to isolate it from big power politics." The Prime Minister of India then added :

Therefore I said it will not be fair to any of the big powers to ask them to supply a representative as a Plebiscite Administrator, however admirable he may be, because that would be embarrassing and needlessly creating suspicion, not in my mind, necessarily, but in some other big powers' mind. I said, therefore, it is far better for us to select a man from one of the smaller countries of Asia or Europe.

India did not know, at the time, that the barrage of propaganda in favour of Admiral Nimitz was intimately connected with secret negotiations for a Pakistan-U.S. military aid pact. This was an ominous development which undermined the very basis of bilateral negotiations whose object was to consider the Kashmir question independently of big power politics. The military aid agreement, however, directly projected all the power and influence of the U.S. on the side of Pakistan. Subsequently, when Pakistan

actually joined first the SEADO and then the Baghdad Pact sponsored by the big powers, the entire context of the Indo-Pakistan relations changed. This, in turn, had inevitable repercussions on the Kashmir conflict.

As an earnest of its desire to reach a settlement of the conflict in Kashmir, India had agreed, in 1952, to Dr. Frank Graham's proposal that it should station 21,000 troops without armour and artillery. These figures were computed in accordance with certain criteria which Dr. Graham had himself laid down, *viz.*, "the minimum number required for the maintenance of law and order and the Cease-fire Agreement, with due regard for freedom of plebiscite", and, in the case of India, "with due regard for the security of the State."

With the conclusion of the U.S.-Pakistan Military Aid Pact and by the adherence of Pakistan to the military alliances, the whole context in which the problem of demilitarisation, etc., was considered in 1952 changed radically.

Pakistan has continued to assert that neither the military aid agreement with the United States nor its membership of the South-East Asia Defence Organisation or the Baghdad Pact has any relevance to the conflict in Kashmir. A consideration of political realities would show how untenable is this assertion.

Kashmir does not exist in a political vacuum. It stands in a particular relationship with India. Pakistan wants to change it. It did not rest content with merely verbal protest. It proceeded to bring about a change in that relationship by force of arms. It did not succeed in this wholly, but it did secure for itself a significant portion of the territory of Jammu and Kashmir State which it continues to occupy. Across the cease-fire line, it is Pakistan armies which are deployed.

Pakistan's military aid agreement with the most powerful State in the world immediately affects, as a sheer physical fact, Pakistan's military strength across the cease-fire line. This, in turn, gives rise to a number of complications making Indo-Pakistan agreement on demilitarisation and

on the quantum and character of forces to be stationed during the plebiscite, on either side of the cease-fire line, infinitely more difficult.

India cannot forget that even when Pakistan was barely a few months old, when it was not sustained by military aids and alliances, it invaded the State of Jammu and Kashmir. And now, across the cease-fire line, additional forces and armaments were being supplied from outside and put at the disposal of Pakistan. The inevitable result of all these developments is to make the task of determining the quantum and character of the forces to be stationed in Kashmir even more difficult than it has been hitherto. And these difficulties are not of India's creation.

While India cannot object to Pakistan entering into military pacts and alliances, it is less than reasonable to expect that it should take no notice of them. It must not only take account of these factors but also bear in mind the cataract of warlike pronouncements of responsible leaders and of organs of public opinion in Pakistan.

Even if Indo-Pakistan relations had been marked by cordiality and friendship, the conclusion of a military aid agreement by either with one of the most powerful nations would have created elements of suspicion when none existed before. But in the actual conditions obtaining, the agreement and the accompanying alliances have added to the fears, suspicions and tensions. President Eisenhower's assurances, as the Prime Minister of India explained in Parliament on March 1, 1954, did not suffice to restore the shattered equilibrium. The Prime Minister said :

...the President of the United States has stated that if the aid given to Pakistan is misused and directed against another in aggression, he will undertake to thwart such aggression. I have no doubt that the President is opposed to aggression. But we know from past experience that aggression takes place and nothing is done to thwart it. Aggression took place in Kashmir six and a half years ago with dire consequences. Nevertheless, the United States have not thus far condemned it and we are asked not to press this point in the interests of peace! Aggres-

sion may take place again and be denied as the previous aggression was denied till it could not be hidden. If conditions are created for such an aggression to take place it may well follow, in spite of the desire of the United States to prevent it. Later, long arguments will be carried on as to whether it was aggression or not. The military aid given by the United States to Pakistan is likely to create the conditions which facilitate and encourage aggression...

The Prime Minister of Pakistan has also stated that this military aid will help to solve the Kashmir problem. That is an indication of the way his mind works and how he thinks this military aid might be utilised. Military aid is only utilised in war or in a threat of war.

It was in these circumstances that the direct negotiations between India and Pakistan reached an impasse. The fundamental basis for the success of these negotiations was that the parties would be left free from outside political or military pressures. No one can pretend that the military arrangements, which Pakistan was secretly negotiating even while its Prime Minister was loudly professing his faith in negotiations, were something quite irrelevant to the settlement of the conflict in Kashmir.

CHAPTER VI

PAKISTAN AND THE MILITARY PACTS

"PAKISTAN is taking the United States for a ride. That is evident from your report and from my observations in that country where I worked until recently. Pakistan thinks it did us a favour by joining SEADO and the Baghdad Pact. They do not worry about the danger of Russian aggression. Pakistani leaders merely humour our concern about Communist expansion in order to get economic and military bakhshish and to strengthen their hand against India...."*

This is the opinion of an American citizen. What is Pakistan's view of the matter?

Towards the end of 1953 when the U.S. press was openly discussing an arms aid pact between the U.S. and Pakistan, the Prime Minister of India in a letter dated December 9, 1953, to the Prime Minister of Pakistan stated :

Inevitably it (U.S. arms aid to Pakistan) will affect the major question that we are considering and more especially the Kashmir Issue. We have been discussing for a long time past the question of demilitarisation in the Kashmir State. Indeed it is proposed to discuss this particular question again at the official conference that has been suggested. The whole issue will change its face completely if heavy and rapid militarisation of Pakistan itself is to take place. It is a relatively small matter what forces Pakistan maintains within the State of Kashmir as it is doing at present. They can withdraw them 30 or 40 or 50 miles into Pakistan territory. These forces can come back at a few hours notice. If, however, they are backed

*Letter from C. Frederick Falk to the U.S. magazine, *Newsweek*, May 21, 1956.

by an increasing armed power in Pakistan itself, that is of far greater moment than the so-called demilitarisation of Kashmir State. In fact it becomes rather absurd to talk of demilitarisation, if Pakistan proceeds in the reverse direction with the help of the United States.

Replying to this letter on December 17, 1953, the Pakistan Prime Minister categorically asserted :

There is no truth in reports that Pakistan was entering into a military alliance with U.S.A....

A month later, in an interview published by the *U.S. News & World Report* dated January 15, 1954, the Pakistan Prime Minister made the following admission:

Q. How would a military agreement with the U.S. effect your relations with India?

A. At first they might become slightly strained but eventually I am convinced that our relations would improve as the military strength of the two countries became more nearly equal.

Q. Wouldnt a settlement of the dispute with India over the State of Kashmir then be more difficult to reach through?

A. Yes; at first. But, again, I am convinced that ultimately it would make a settlement easier. At present, we can't get a settlement, mainly because India has greater military strength and Nehru is not much interested in a fair settlement. When there is more equality of military strength, then I am sure that there will be a greater chance of settlement.

The veil was lifted when on February 22, 1954, the Prime Minister of Pakistan announced at a Press Conference that his Government had requested the United States for "military assistance within the scope of the U.S. mutual security legislation".

Even before the announcement by President Eisenhower of U.S. military aid to Pakistan, the Associated Press of Pakistan had put out on February 23, 1954, a story which was published by the *Pakistan Times* and other Pakistani papers that the general comment (on the proposed aid) was that "a strong Pakistan is bound to make the solution of the Kashmir dispute easier and quicker."

On February 26, 1954, a day after the announcement of the aid, the *Pakistan Times* in an editorial declared "as far as the U.S.S.R. and China—America's main targets—are concerned, whatever we might think of their regimes, they do not threaten Pakistan in any way." The Indian reaction was, naturally, against whom then was the aid intended? The answer had already been given by the *Dawn* which, in an editorial dated January 21, 1954, had said "it is sheer unrealism" to consider that the Kashmir problem could be solved by negotiations. Others were more direct, as time was to show.

Meanwhile, Sir Mohd. Zafrullah Khan, Pakistan Foreign Minister, in an interview published by the French newspaper *Le Monde* on January 4, 1954, said: "Pakistan has never considered and is not at present considering participating in a military alliance." Asked about a military pact with Turkey, Iran and Iraq he said: "No military agreement between Pakistan and the countries you mentioned exists and to my knowledge there is no question of signing one".

He was supported by the Pakistan Premier, Mr. Mohammed Ali, who speaking in Dacca on January 30, 1954, said, "no military alliance between Turkey and Pakistan has been contemplated".

Less than three weeks later on February 19, 1954, however, the Pakistan Prime Minister announced the Turko-Pakistan agreement for political, including defence, collaboration. On June 30, 1955, Pakistan entered the Baghdad Pact which at that time included Turkey and Iraq as members and, which, in October 1955, was joined by Iran.

The SEADO Pact (of which Pakistan also is a charter member) signed in September 1954, clearly defines the scope of the pact which is to "resist armed attack and to prevent and counter subversive activities directed from without against their territorial integrity and political stability".

The instruments which established the original Turko-Iraq Pact and the instruments which subsequently brought

the U.K. and Pakistan into the present Baghdad Pact confine the scope of the pact to the region of the high contracting parties and set out the character of the agreement as being consistent with the U. N. Charter, and further that its purpose was co-operation for the security and defence of the high contracting parties.

Quite a different view was held in Pakistan. The *Dawn* on December 1, 1955, remarked:

Our friendships and alliances, the Baghdad Pact and SEADO will all be on trial. As long as Kashmir remains under the forcible occupation of an aggressor and yet our friends and allies refuse to come down from their 'neutral' fence, these pacts and alliances can have no meaning for our people... if they (these allies) continue to maintain their pose of aloof sanctimoniousness there will have to be an agonising reappraisal of this country's position and stand in the world context.

It was perhaps suspicion of Pakistan's motives in joining SEADO that made one of the signatories of SEADO add to the provision before signing the pact that "its recognition of the effect of aggression and armed attack... apply only to communist aggression".

Again, the *Dawn* of December 11, 1955, commenting on the support India's stand on the Kashmir issue had received from some foreign statesmen said:

But what about our allies? They dare not acknowledge even the truth, far less, speak up in support of Pakistan's stand which they know to be correct.....Indeed even in the United States the current seems to be again running strongly in favour of renewed appeasement of Mr. Nehru. Nor are Pakistan's Moslem partners in the Baghdad Pact any more helpful to us on the Kashmir question...soon the issues must be force in some way so that the people of this country know where they stand and how far the recent foreign policy of their leaders has proved successful.

The Urdu daily *Nai Roshni* in an editorial on April 1, 1956 advocated:

They (India and Mr. Nehru) can only be answered by conquering Kashmir with the help of U.S., U.K. and the SEADO and Baghdad Pacts...

"Weak policies would not lead us anywhere", remarked Mr. H. M. Habibullah, Member of the Legislative Assembly, West Pakistan, in a statement published in the *Times of Karachi* on April 30, 1956. "Pakistan should ask her SEADO and Baghdad Pact allies to assist her in", as he chose to put it, "getting Kashmiris freed".

In the same newspaper on March 31, 1956, Mr. Waheeduzzaman, ex-member of the Constituent Assembly and Director of the State Bank of Pakistan, stated:

The people of Pakistan will watch their SEADO and Baghdad Pact friends for what they would do in the circumstances.

That Pakistan's object in signing military pacts was to embroil other signatories in the Kashmir dispute became clear when it sought to place Kashmir on the agenda at the recent meetings of the SEADO and the Baghdad Pact Councils. No less an authority than Mr. Hamidul Haq Choudhury, Pakistan Foreign Minister, stated in the Foreign Affairs debate in the Pakistan Assembly on March 26, 1956, as reported in the *Dawn* on the following day:

The most notable achievements of the SEADO were the joint reaffirmation by the members of our stand on Kashmir...

Almost two years earlier the Prime Minister of India had warned the Prime Minister of Pakistan in a letter dated March 5, 1954:

You yourself have stated that this military aid will help in solving the Kashmir issue. This can only mean that you wish to settle this issue by force of arms or by threat to use arms, unless the preliminary issues still outstanding, such as the quantum of forces, are settled to the satisfaction of Pakistan. Similar references have been made by others also, which indicate that it is in connection with India that Pakistan has asked for and received this military aid. You will appreciate, I hope, that this is not only a very serious matter but that it changes the whole approach to the Kashmir problem. It takes it out from the region of a peaceful approach for a friendly settlement by bringing in the pressure of arms.

It is worth mentioning that at the time of partition, Pakistan had an armed force of 150,000 as announced in a Pakistan publication *Five Years of Pakistan*, 1952. Two years later, according to an article in the *Times of India* dated April 4, 1954, Pakistan had a standing army of approximately 200,000 men, which was better equipped than in the days of the British and was larger than Britain's peace-time army in the whole of undivided India!

Apart from the war material Pakistan is receiving from the U.S.A., a comparison of Pakistan's defence expenditure with India's expenditure under the same head is revealing.

During 1956-57 Pakistan's defence expenditure is expected to be Rs. 1,083 million, constituting 37% of Pakistan's total expenditure which is estimated at Rs. 2,940 million. So far as India is concerned its defence budget for 1956-57 comes to Rs. 2,030 million constituting less than 20% of the total expenditure of Rs. 12,370 million. The figures assume importance especially when it is realised that India is three and a half times the size of Pakistan and has a population nearly four and a half times as great.

Also, estimating Pakistan's national income at Rs. 20,000 million and its population as roughly 80 million, Pakistan is spending on defence, more than five per cent. of its national income, nearly Rs. 13/5/- per Pakistani. Comparably, India spends two per cent of its national income on defence, about Rs. 6 per Indian.

In short, Pakistan's economy is being put on a war footing. Pakistan makes no secret of its intentions as A.T. Steele, who discovered it for himself, says in an article published on June 7, 1956, in the *New York Herald Tribune*.

India's conviction is that United States arms would be used against it by Pakistan.

This of course is denied in high places in Karachi. But any body who travels much in Pakistan soon finds that the only enemy most Pakistanis take seriously is India. The average Pakistani thinks very little about the communist threat if he thinks of it at all. His hostility is towards India rather than the Soviet Union. And he assumes that in the event of a showdown with India, American military supplies will be drawn upon.

Confirmation of Steele's estimate was forthcoming within a week. According to a *Reuter* message, Mr. Lal Shah Bokari, Pakistan's Minister in Syria, was reported to have made the following statement at a Press Conference after presenting his credentials in Damascus on June 10, 1956:

Pakistan will fight to rescue Kashmir when Pakistan has completed building up her strength.

This report was later confirmed by a message published in the *Dawn* of June 12, 1956, according to which the Pakistan Minister stated:

If we have been strong enough we would have resorted to force to recover Kashmir. At any rate war is inevitable between ourselves and Bharat (India) to recover this area which is lawfully ours.

CHAPTER VII

KASHMIR AND ITS PEOPLE

IN all the arguments and controversies, and the interplay of international politics, there is a tendency to forget the people of Kashmir. They suffered oppression and repression at the hands of an autocratic regime and as the majority community, the worst sufferers were the Muslims themselves ; the Muslim League, however, showed no sympathy for them in their struggle. After the partition of India, the interest shown by Pakistan was based on aggrandisement ; for the raiders sent by Pakistan looted, ravaged and violated Muslim homes with a view to adding a slice of territory to the newly-founded State of Pakistan. Even later, the argument of the rivers implied the interest of Pakistan, not of the people of Kashmir.

Opportunities have been afforded to the people of Kashmir on the Indian side to develop a democratic system of government and establish a regime of economic and social justice. Under what Pakistan chooses to call a Hindu India, the rule of the Hindu Dogra dynasty has been abolished. Feudal landlordism which benefited largely a Hindu oligarchy has also been abolished, and, unlike what India did for itself, its abolition in Kashmir went without compensation even though compensation is inescapable under the Indian Constitution. In place of the Hindu dynasty and landlordism, a democratic order has been substituted by the will of the people of Kashmir themselves. The majority of them continue to be Muslims and they give strength and faith to the concept of a secular State enshrined in the Constitution of India.

The magnitude of the land reform can be understood by reference to the following provisions of Kashmir's Abolition of Big Landed Estates Act :

1. no one who is not an actual cultivator is entitled to own more than 23 acres of land;

2. the remaining land of every proprietor is transferred in ownership right to the peasant to the extent of his possession;

3. the land, in excess of 23 acres and not being cultivated by tenants, will vest in the State to be used for settling landless labourers.

Thus, 563,500 acres of land were transferred to the tillers automatically, cancelling all rights of the old proprietors, a substantial number of whom were Hindus. Even earlier in 1950, the Kashmir Government had introduced a far-reaching measure to relieve the peasantry and the urban poor of the crushing burden of indebtedness. The Distressed Debtors Relief Act prescribed that when the debtor had repaid the principal plus 50 per cent in the form of interest the debt would be automatically discharged. Any amount paid in excess of 150 per cent was to be refunded to the debtors. The success of this measure could be assessed by the number of applications for relief. By 1953, these applications numbered 48,195 involving a total debt of Rs. 11,122,054.

The reorganisation of educational, health and medical facilities has been no less far-reaching. These reforms helped to revive the life of the people which the unselement caused by Pakistan's invasion had so completely shattered. During the last two years, a large network of irrigation canals has been constructed. Large electrical power-houses have been installed. Trade and tourism have revived and the arts and crafts of Kashmir have come into their own. Life has revived in Kashmir; there is a sense of purpose among the people.

While Pakistan shouts in terms of religious fanaticism, and is accumulating arms, the people of Kashmir, on the Indian side, as the people of India, are concentrating on giving that economic and social content to their freedom without which freedom itself has little meaning.

CHAPTER VIII

CONCLUSION

THE gravamen of the charge levelled against India by Pakistan and its supporters is that India, having promised to hold a plebiscite, is resiling from that promise. In the interest of accuracy, it should be stated that the promise which India made to ascertain the wishes of the people was not made for the benefit of Pakistan. Pakistan was an aggressor at the time and it was entitled to no such promise. And subsequently, Pakistan committed further aggression. Far from getting the benefit of India's unilateral promise, it is not even entitled, in law or morality, to have any say in the matter because its acts of aggression were aggravated by its denials.

It should also be borne in mind that the promise which India made on October 27, 1947, was to be carried out only when law and order had been restored in the State of Jammu and Kashmir and the invaders cleared from its soil.

In all the negotiations which took place on the question of holding a plebiscite in Kashmir, the United Nations had throughout demanded that Pakistan must withdraw its forces from the area it occupied. This was clearly provided in Part II-B, paragraph one, of the resolution of the United Nations Commission dated August 13, 1948. It provided as follows:

When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II A, 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to

the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission.

The resolution of January 5, 1949, again provided that :

A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of August 13, 1948, have been carried out and arrangements for the plebiscite have been completed.

It cannot be argued that India is obstructing the fulfilment of these conditions when Pakistan, having committed aggression, is in unlawful possession of the territory of the Kashmir State. It has reinforced its military occupation by building up and equipping a large fighting force under its military command and by military aid agreements and by military alliances.

India went to the Security Council on January 1, 1948, with a straightforward complaint. It said that Pakistan was engaged in acts of aggression. India requested the Council to use its authority to stop that aggression.

The aggression was not stopped and now the gains of aggression have been consolidated in over a third of the Indian Union territory of Jammu and Kashmir State under occupation of Pakistan. Had aggression been stopped and the *status quo ante-aggression* restored in 1948-49, steps could have been easily taken for determining the wishes of the people. This was not done. Issues were simple then. They are much more complicated now and require patience and perseverance.

The Prime Minister of India in his letter to the Prime Minister of Pakistan, of September 3, 1953, set out the context in which the problem of Kashmir must be viewed :

...History gives us examples of conflict between nations continuing for generations over some intermediate territory. Wars have sometimes made a temporary difference but not solved the

problem. If we aim, as we must, at closer and co-operative relationship between India and Pakistan, we must find a solution of the Kashmir problem which is not only satisfactory to the people as a whole there but is also achieved without bitterness and a sense of continuing wrong to India and Pakistan. While the interests of the people of Kashmir are paramount, there are also certain national interests of India and Pakistan which come into conflict over this Kashmir affair. It also happens that a very great deal depends not only on the solution of the problem but perhaps even more so on the manner of doing it. Because, that manner will have far-reaching consequences both in India and Pakistan in the present and the future. You will understand what I mean. The large minorities in India and Pakistan will be affected by that solution. If it is wrongly done, then the position of these minorities might well suffer and new problems be created, even bigger than the one of Kashmir. We must, at all costs, avoid this. To ignore it in our extreme desire to show some quick result in Kashmir, is bankruptcy of statesmanship. To submit to the momentary passion of an excited populace and take a wrong course is not leadership...

We have to look at current events in some historical perspective. In this perspective, our huge continent of Asia appears to awaken after 300 years of quiescence. The inevitable destiny of India and Pakistan must be to co-operate as independent nations to their mutual advantage and for the good of Asia and the world. If that is the objective, then we must move wisely and warily and not take any step which is in the wrong direction. Every step in the right direction, however, small it may be, helps and produces that atmosphere out of which right action comes. It is for this reason that I have suggested that we should proceed to consider and solve all our problems. Obviously the Kashmir problem is of high importance; in some ways the most important problem before us, and we must tackle it. But it appears to me important that the other matters, which are by no means unimportant and which affect large numbers of people, should also go ahead. But above all, in whatever we may do, let us keep this larger objective in view and think of the perspective of history. For my part, I am determined to try my utmost to seek satisfactory solutions which will lead to friendship and co-operation between the two nations, and I shall not permit myself to be diverted from this aim even by untoward occurrences.

Nearly three years have elapsed since the Prime Minister of India addressed the letter to the Prime Minister of Pakistan. Soon after, Pakistan entered into a series of

purely military arrangements. It concluded a military aid agreement with the United States. This was followed by its membership of the South East Asia Defence Organisation and subsequently, of the Baghdad Pact.

Whatever may have been the motives of other countries, Pakistan's object in entering these military alliances was unmistakably clear: it was to exert political and military pressure on India to have the problem of Kashmir solved in a manner satisfactory to Pakistan. India clearly expressed its apprehensions and subsequent events have proved India to be right. Pakistan thus forced on reluctant members, who have no hostility towards India, a discussion on Kashmir in the meeting of the SEADo Council held in Karachi from March 6 to March 8, 1956; it raised the Kashmir issue again in the Council meeting of the Baghdad Pact held in Tehran from April 16 to April 19, 1956.

India could not but take into account these developments which had changed the entire context in which the negotiations on the question of Kashmir had been conducted between it and Pakistan. It could not overlook these military alliances and the continued refusal of the Government of Pakistan to accept the offer repeatedly made by the Prime Minister of India to make a declaration that under no circumstances would India and Pakistan go to war for the settlement of any dispute. Pakistan replied by stating that they would agree to such a no-war declaration only under certain conditions, *viz.*, that India should agree to settle all the questions at issue by mediation or arbitration.

Speaking in Parliament on March 29, 1956, the Prime Minister of India pointed out that attaching of conditions to the proposed declaration was unrealistic. He stated:

+

...It is clear that we must tie ourselves in a no-war declaration with all kinds of conditions, etc. Then you get the same vicious circle, you must settle first and then make a no-war declaration; if you settle everything then it is not necessary to have a no-war declaration and this business of trying to commit us to arbitration...

I want to be quite frank with this House and with the Pakistan Government. Having had nine years of this Kashmir affair in changing phases and this problem affecting certainly the people of Jammu and Kashmir State, affecting India in a variety of ways, affecting our Constitution and our sovereignty, affecting our vital interests, am I to be expected to agree to some outside authority becoming an arbitrator in this matter? I cannot understand. No country can agree to this kind of disposal of vital issues. But I do think that since we both agree, both Pakistan authorities and we, that on no account should we go to war with each other, that we should settle our problems peacefully; they may not be settled for some time. It is better to have a problem pending than to go to war for it. Therefore, it would be a very desirable thing, a helpful thing, to have a no-war declaration.

The democratic aspirations of the people of Jammu and Kashmir State could not remain in cold storage pending the final resolution of the conflict in Kashmir. Even before India's independence, the Kashmir National Conference had pledged itself to convene a Constituent Assembly. Accordingly, certain steps were taken by the Jammu and Kashmir Government, with the concurrence of the Government of India, to elect and to convene a Constituent Assembly.

The Constituent Assembly charged with the responsibility of giving concrete shape to the wishes of the people, passed important measures of land reforms which have already been described; great development works were undertaken and the people of the State, except those under the forcible occupation of Pakistan, made progress. The people of Jammu and Kashmir experienced more prosperity under its duly elected Government than they had had at any other time in their history. In 1955, as many as 50,000 visitors came to Kashmir. This was unprecedented.

Any solution of the Kashmir problem must take into account all these developments which have taken place during the last nine years. A solution must be such as would not uproot things that have become settled and stable—legally, constitutionally and practically. It is for this reason that the Government of India have time and again emphasised that the manner of settling the Kashmir

problem is of utmost importance. It should not produce instability where stability exists. It should not lead to aggravation of conflict with Pakistan. And finally, it should not be a beginning of large-scale exodus of minorities. The continuous exodus from East Pakistan of thousands of people belonging to the minority community points to the danger which must, at all cost, be avoided. The problem of Kashmir must be viewed in this wider context. Only then a realistic, practical and enduring solution can be found.

APPENDIX I

Instrument of Accession of Jammu and Kashmir State

WHEREAS, the Indian Independence Act, 1947, provides that as from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as INDIA, and that the Government of India Act, 1935, shall with such omissions, additions, adaptations and modification as the Governor-General may by order specify, be applicable to the Dominion of India;

AND WHEREAS the Government of India Act, 1935, as so adapted by the Governor-General provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof:

NOW THEREFORE I Shriman Indar Mahandar Rajrajeshwar Maharajadhiraj Shri Hari Singhji Jammu Kashmir Naresh Tatha Tibbet adi Deshadhipathi Ruler of JAMMU AND KASHMIR State in the exercise of my sovereignty in and over my said State Do hereby execute this my Instrument of Accession and

1. I hereby declare that I accede to the Dominion of India with the intent that the Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall, by virtue of this my Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State of Jammu and Kashmir (hereinafter referred to as "this State") such functions as may be vested in them by or under the Government of India Act, 1935, as in force in the Dominion of India on the 15th day of August 1947, (which Act as so in force is hereinafter referred to as "the Act").

2. I hereby assume the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.

3. I accept the matters specified in the Schedule hereto as the matters with respect to which the Dominion Legislature may make laws for this State.

4. I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor-General and the Ruler of this State whereby any functions in relation to the administration in this State of any law of the Dominion Legislature shall be exercised by the Ruler of this State, then any such agreement shall be deemed to form part of this Instrument and shall be construed and have effect accordingly.

5. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or of the Indian Independence Act, 1947, unless such amendment is accepted by me by an Instrument supplementary to this Instrument.

6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorising the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purposes of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense or if the land belongs to me transfer it to them on such terms as may be agreed, or, in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.

7. Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future constitution of India or to fetter my discretion to enter into arrangements with the Government of India under any such future constitution.

8. Nothing in this Instrument affects the continuance of my sovereignty in and over this State, or, save as provided by or under this Instrument, the exercise of any powers, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.

9. I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors.

Given under my hand this 26th day of October nineteen hundred and forty-seven.

(Sd.) HARI SINGH,

Maharajadhiraj of Jammu and Kashmir State

I do hereby accept this Instrument of Accession.

Dated this twenty-seventh day of October nineteen hundred and forty-seven

(Sd.) MOUNTBATTEN OF BURMA,
(Governor-General of India).

SCHEDULE

The matters with respect to which the Dominion Legislature may make laws for this State

A. Defence

1. The naval, military and air forces of the Dominion and any other armed force raised or maintained by the Dominion; any armed forces, including forces raised or maintained by an acceding State, which are attached to, or operating with, any of the armed forces of the Dominion.
2. Naval, military and air force works, administration of cantonment areas.
3. Arm, fire-arms; ammunition.
4. Explosives.

B. External Affairs

1. External affairs; the implementing of treaties and agreements with other countries; extradition, including the surrender of criminals and accused persons to parts of His Majesty's dominions outside India.
2. Admission into, and emigration and expulsion from, India, including in relation thereto the regulation of the movements of India of persons who are not British subjects domiciled in India or subjects of any acceding State, pilgrimages to places beyond India.
3. Naturalisation

C. Communications

1. Posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication.
2. Federal railways; the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fare, station and services terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.
3. Maritime shipping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.
4. Port quarantine.

5. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein.

6. Aircraft and air navigation; the provision of aerodromes; regulation and organisation of air traffic and of aerodromes.

7. Lighthouses, including lightships, beacons and other provisions for the safety of shipping and aircraft.

8. Carriage of passengers and goods by sea or by air.

9. Extension of the powers and jurisdiction of members of the police force belonging to any unit to railway area outside that unit.

D. Ancillary.

1. Elections to the Dominion Legislature, subject to the provisions of the Act and of any Order made thereunder.

2. Offences against laws with respect to any of the aforesaid matters.

3. Inquiries and statistics for the purposes of any of the aforesaid matters.

4. Jurisdiction and powers of all courts with respect to any of the aforesaid matters but, except with the consent of the Ruler of the Acceding State, not so as to confer any jurisdiction or powers upon any courts other than courts ordinarily exercising jurisdiction in or in relation to that State.

APPENDIX II

Resolution of the Commission of August 13, 1948

The United Nations Commission for India and Pakistan having given careful consideration to the points of view expressed by the representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in affecting a final settlement of the situation,

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal:

PART I

Cease-Fire Order

A. The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.

B. The High Commands of the Indian and Pakistani forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.

(For the purpose of these proposals forces under their control shall be considered to include all forces, organised and unorganised, fighting or participating in hostilities on their respective sides.)

C. The Commanders-in-Chief of the forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease fire.

D. In its discretion and as the Commission may find practicable, the Commission will appoint military observers who, under the authority of the Commission and with the co-operation of both Commands, will supervise the observance of the cease-fire order.

E. The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

PART II

Truce Agreement

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their representatives and the Commission.

A

1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting.

3. Pending a final solution, the territory evacuated by the Pakistani troops will be administered by the local authorities under the surveillance of the Commission.

B

1. When the Commission shall have notified the Government of India that the tribesmen and Pakistani nationals referred to in Part II A, 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission.

2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.

3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

C

1. Upon signature, the full text of the truce agreement or a communique containing the principles thereof as agreed upon between the two Governments and the Commission will be made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

APPENDIX III

Resolution of the Commission of January 5, 1949.

The United Nations Commission for India and Pakistan, having received from the Governments of India and Pakistan, in communications dated December 23, and December 25, 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's resolution of August 13, 1948:

1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite;
2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of August 13, 1948, have been carried out and arrangements for the plebiscite have been completed;
3. (a) The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.
(b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.
(c) The Plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require.
4. (a) After implementation of Parts I and II of the Commission's resolution of August 13, 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

(b) As regards the territory referred to in A.2 of Part II of the resolution of August 13, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.

5. All civil and military authorities within the State and the principal political elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.

6. (a) All citizens of the State who have left in on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan. The Commission shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.

(b) All persons (other than citizens of the State) who on or since August 15, 1947, have entered it for other than lawful purpose, shall be required to leave the State.

7. All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that:

(a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite;

(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit;

(c) All political prisoners are released;

(d) Minorities in all parts of the State are accorded adequate protection; and

(e) There is no victimisation.

8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted;

9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission

and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial;

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultations envisaged in Part III of the Commission's resolution of August 13, 1948. The Plebiscite Administrator will be fully associated in these consultation;

Commends the Governments of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before midnight of January 1, 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of August 13, 1948; and

Resolves to return in the immediate future to the sub-continent to discharge the responsibilities imposed upon it by the resolution of August 13, 1948, and by the foregoing principles.

APPENDIX IV

Letter from the Prime Minister of India to the Chairman in reply to the Commission's Resolution of August 13, 1948.

New Delhi,

August 20, 1948.

Excellency,

On August 17, my colleague, the Minister without Portfolio, and I discussed with you and your colleagues of the Commission now in Delhi the resolution which you had presented to us on the 14th instant. On the 18th, I had another discussion with you, in the course of which I tried to explain to you the doubts and difficulties which members of my Government, and representatives of the Government of Kashmir whom we consulted, had felt as the result of a preliminary but careful examination of the Commission's proposals.

2. During the several conferences that we had with the Commission when it first came to Delhi, we placed before it what we considered the basic fact of the situation which had led to the conflict in Kashmir. This fact was the unwarranted aggression, at first indirect and subsequently direct, of the Pakistan Government on Indian Dominion territory in Kashmir. The Pakistan Government denied this although it was common knowledge. In recent months, very large forces of the Pakistan regular army have further entered Indian Union territory in Kashmir and opposed the Indian Army which was sent there for the defence of the State. This, we understand now, is admitted by the Pakistan Government, and yet there has been at no time any intimation to the Government of India by the Pakistan Government of this invasion, there has been a continual denial and the Pakistan Government have evaded answering repeated inquiries from the Government of India.

In accordance with the resolution of the Security Council of the United Nations adopted on January 17, 1948, the Pakistan

Government should have informed the Council immediately of any material change in the situation while the matter continued to be under the consideration of the Council. The invasion of the State by large forces of the regular Pakistan Army was a very material change in the situation, and yet no information of this was given so far as we know to the Security Council.

The Commission will appreciate that this conduct of the Pakistan Government is not only opposed to all moral codes as well as international law and usage, but has also created a very grave situation. It is only the earnest desire of my Government to avoid any extension of the field of conflict and to restore peace, that has led us to refrain from taking any action to meet the new situation that was created by this further intrusion of Pakistan Army into Jammu and Kashmir State. The presence of the Commission in India has naturally led us to hope that any arrangement sponsored by it would deal effectively with the present situation and prevent any recurrence of aggression.

3. Since our meeting of August 18, we have given the Commission's resolution our most earnest thought. There are many parts of it, which we should have preferred to be otherwise and more in keeping with the fundamental facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognise, however, that if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed, we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before Your Excellency:

- (1) That paragraph A-3 of Part II of the resolution should not be interpreted, or applied in practice, so as:
 - (a) to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops;
 - (b) to afford any recognition of the so-called "Azad Kashmir Government"; or
 - (c) to enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State.
- (2) That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than the observance of internal law and order and that, therefore, the withdrawal of Indian troops and the strength of Indian

forces maintained in Kashmir should be conditioned by this overriding factor. Thus at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.

(3) That as regards Part III, should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organisation and conduct of the plebiscite or in any other matter of internal administration in the State.

4. If I understood you correctly, A-3 of Part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3(1) of this letter. In fact, you made it clear that the Commission was not competent to recognize the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.

As regards paragraph 3(2), the paramount need for security is recognized by the Commission, and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India.

Finally, you agreed that Part III, as formulated, does not in any way recognize the right of Pakistan to have any part in a plebiscite.

5. In view of this clarification, my Government, animated by a sincere desire to promote the cause of peace, and thus to uphold the principles and prestige of the United Nations, have decided to accept the resolution.

Accept, Excellency, the assurance of my highest consideration.

Reply from the Chairman of the Commission to the Letter from the Prime Minister of India dated August 20, 1948.

New Delhi,
August 25, 1948.

Excellency,

I have the honour to acknowledge the receipt of your communication dated August 20, 1948, regarding the terms of the resolution of the United Nations Commission for India and Pakistan which the Commission presented to you on August 14, 1948.

The Commission requests me to convey to Your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (c) the local people of the evacuated territory will have freedom of legitimate political activity. In this connection, the term "evacuated territory" refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command.

The Commission wishes me to express to Your Excellency its sincere satisfaction that the Government of India has accepted the resolution and appreciates the spirit in which this decision has been taken.

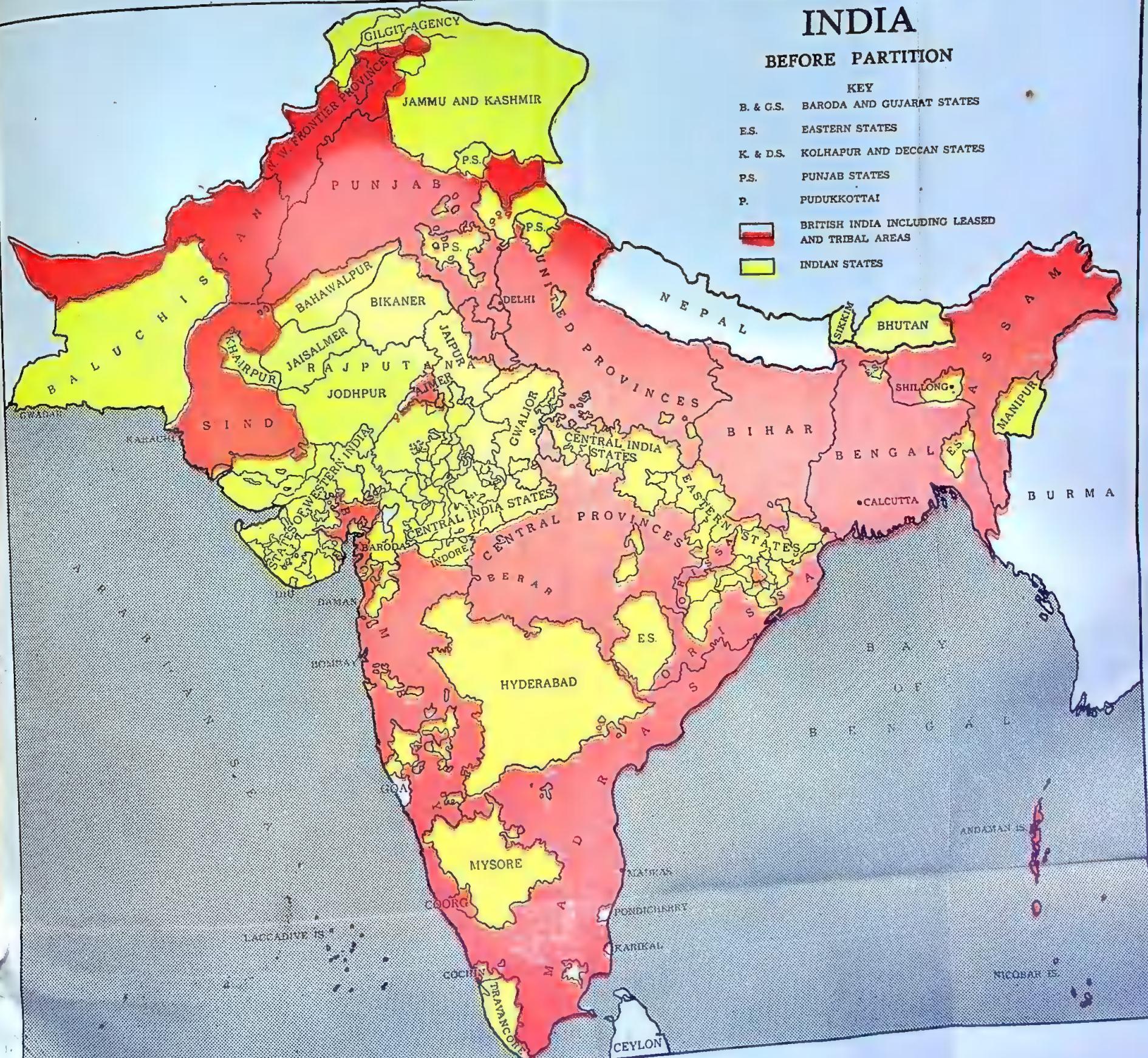
I wish to avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

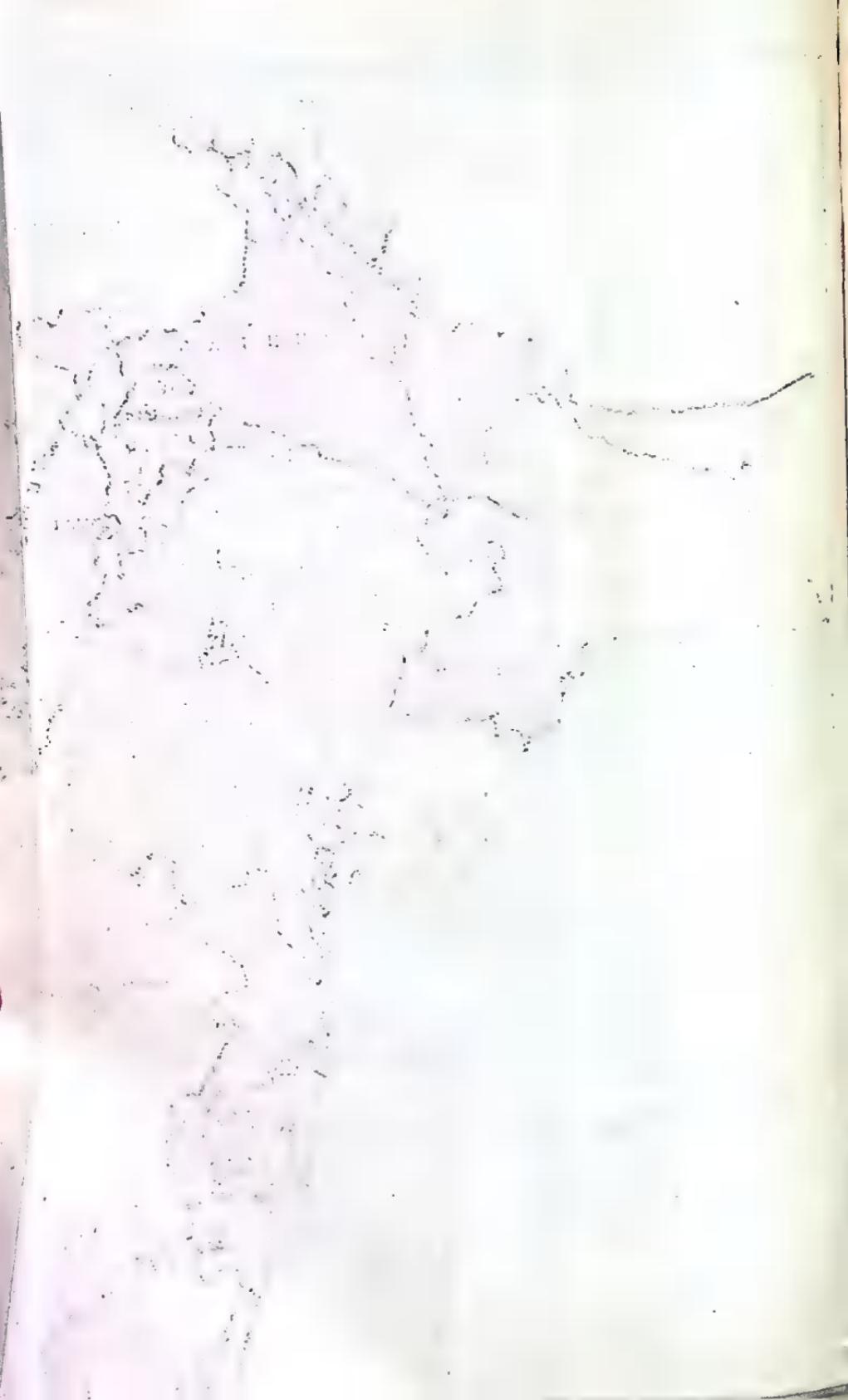
INDIA

BEFORE PARTITION

KEY

B. & G.S.	BARODA AND GUJARAT STATES
E.S.	EASTERN STATES
K. & D.S.	KOLHAPUR AND DECCAN STATES
P.S.	PUNJAB STATES
P.	PUDUKKOTTAI
	BRITISH INDIA INCLUDING LEASE AND TRIBAL AREAS
	INDIAN STATES





INDIA

AFTER PARTITION

KEY

H.P.	HIMACHAL PRADESH
P.E.P.S.U.	PATIALA AND EAST PUNJAB STATES UNION
UNIONS OF STATES	
STATES REMAINING AS SEPARATE UNITS	
GOVERNOR'S STATES	
CENTRALLY ADMINISTERED AREAS	
FOREIGN POSSESSIONS	

